The voice of local government.

ESCOSA Draft Framework and Approach – Advice to councils on Strategic Management Plans

Submission

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Contents

1. Introduction

As part of wide-ranging reforms to the *Local Government Act 1999* (the Local Government Act) the Strategic Management Plan Advice Scheme (SMP Advice Scheme)[1] commenced on 30 April 2022, pursuant to section 122 of the Local Government Act. The SMP Advice Scheme was approved by Parliament as part of the *Statutes Amendment (Local Government Review) Act 2021*. The State Government argued that the sector would benefit from a robust framework for financial accountability. The arrangements were ultimately supported by the local government sector as an alternative to rate capping and rates oversight. The scheme focuses on key council financial accountability documents, with the primary aim of increasing council transparency[2].

This scheme requires the designated authority (currently the Essential Services Commission of SA (ESCOSA)) to review defined aspects of a council's strategic management plan (SMP) and provide advice to the council. The councils to be reviewed in each year of the 4-year cycle are determined by ESCOSA. ESCOSA's advice to councils, and each council's response, must be published in a council's draft and adopted Annual Business Plan.

ESCOSA released its **'Draft Framework and Approach' (DFA)** for the scheme in March 2022 and called for submissions. ESCOSA also released the initial four-yearly schedule of councils for the scheme and an information provision guideline designed to require councils to provide historical and future information ESCOSA deemed necessary to give effect to the scheme. The LGA undertook a consultation process with member councils and sought feedback to inform the development of a sector wide response to the ESCOSA consultation process. The LGA received a strong and well considered response from councils and provides this submission.

2. Background

Parliamentary History

The Local Government Association of SA (LGA) was significantly involved in the negotiations that resulted in the advice scheme set out in section 122 of the Local Government Act. The evolution of these negotiations are integral in understanding the rationale behind and basis of the final version of section 122:

1. **Rate Capping Bill**. *Local Government (Rate Oversight) Amendment Bill 2018*[3].

   The new Liberal Government introduced a Bill to set a cap on council rate increases, which included a process by which a council could apply to increase rates beyond the rate cap. The rate cap was to be set by ESCOSA and the Minister was able to direct ESCOSA on the matters that it had regard to. The Bill also gave the Minister a new power to direct councils on the basis of reports generated through this process. This rate capping bill was defeated in Parliament.

1 The scheme has historically been referred to as the 'rates oversight scheme'. The evolution of the scheme is outlined further in this paper. The placement of the scheme within section 122 of the Local Government Act and ultimate form of the scheme is consistent with reference to the scheme as the Strategic Management Plan Advice Scheme (SMP Advice Scheme), which is the reference used throughout this submission.

2 SA Parliament, House of Assembly Official Hansard, Legislative Review Committee, the Hon V.A. Chapman (Bragg—Deputy Premier, Attorney General, Minister for Planning and Local Government), *Statutes Amendment (Local Government Review) Bill* Committee Stage, 13 October 2020.

3 *Local Government (Rate Oversight) Amendment Bill 2018*, Introduced by Local Government Minister Stephan Knoll on 20 June 2018.

2. **Rates Oversight**. *Statutes Amendment (Local Government Review) Bill 2020* (the LG Reform Bill)

   On 17 June 2020, Minister Knoll introduced the LG Reform Bill. This Bill required councils to report to a 'designated authority' (most likely ESCOSA) on:

   - increases in revenue from general rates including the reasons for the change;
   - the impact of the rates change;
   - information as to whether consideration had been given to alternatives to the proposed change in total revenue from general rates, such as alternative expenditure measures or funding proposals;
   - information as to how the proposal was consistent with the council's long-term financial plan and infrastructure and asset management plan; and
   - on the basis of a report from the designated authority, the Minister could direct a council in relation to the council's budgetary settings.

   This first version of the LG Reform Bill was focused on council rates and changes to these rates. During his Second Reading Speech[4] on the LG Reform Bill, Minister Knoll explained the scope, thus:

   > *"Councils will now be required to receive and consider advice from an independent body on their proposed revenue from general rates for each financial year. Councils will need to provide information on their proposed rate revenue to this body at the end of the calendar year, along with critical information on the context in which this revenue change is proposed. This will include the council's view of the impact of the rate change on its ratepayers, whether the council has considered alternate mechanisms such as the responsible use of debt, the use of council reserves or exercising spending restraint and, most importantly, how the proposed change is consistent with the council's long-term financial plan and infrastructure and asset management plan."*[5]

   The Hansard extract above refers to proposed amendments in section 123[6] of the Local Government Act, which were **all withdrawn**. None of the proposed requirements, set out in the dot points describing the 'Rates Oversight' scheme, were supported by the Parliament.

3. **SMP Advice Scheme.** *Statutes Amendment (Local Government Review) Act 2022* (the LG Reform Act)

   The version of the SMP Advice Scheme ultimately approved by Parliament was introduced by new Local Government Minister, Vickie Chapman on 13 October 2020. Minister Chapman's speech included the Explanatory Notes, drafted by the Office of Parliamentary Counsel, for the new version of section 122[7].

   Minister Chapman explained the significant changes to the scheme as follows:

   > *"These amendments **make significant changes to the rate monitoring scheme** included within the bill, following extensive discussion with the LGA. In summary these changes require council to **receive advice from a designated authority on their proposed revenue** every three years rather than every year[8], **refocus this advice from council's annual business plans to the***

4 SA Parliament, House of Assembly Official Hansard, Second Reading, Statutes Amendment (Local Government Review) Bill, the Hon S.K. Knoll (Schubert—Minister for Transport, Infrastructure and Local Government, Minister for Planning), 17 June 2020.
5 ESCOSA erroneously quoted this speech in its DFA to interpret and clarify the current version of section 122. However, Minister Knoll's second reading speech refers to elements of sections 122 and 123 of the LG Reform Bill which were not supported by Parliament.
6 Section 123—Annual business plans and budgets, *Local Government Act 1999*
7 If there was ambiguity in the words of the statute, courts would rely upon the Explanatory Notes in Minister Chapman's speech as an aid to interpretation. A court would not take into account Minister Knoll's second reading speech, which related to clauses that do not appear in the Act.
8 Note that, as a result of LGA advocacy, Regulations to support commencement of the SMP Advice Scheme specify four (4) years, instead of three (3) as the review cycle.

revenue decisions** that they make **within the context of the council's 10-year financial plan**, remove the minister's ability to direct the designated authority to consider particular matters, remove the minister's ability to direct councils on the basis of a report from the designated authority and clarify that the designated authority is the Essential Services Commission of South Australia unless another body is prescribed. I also note that most of these amendments are the same as the amendments that were filed on 24 September. **The only further amendment is to remove the ability of the designated authority to require councils to provide information as it determines[9]

Summarising the difference between the LG Reform Bill (the Knoll version) and the LG Review Act (the Chapman version), the latter:

- withdrew proposed clauses requiring a review of council rates and changes to rates;
- refocused the scheme as a review of a council's LTFP and IAMP (and changes to these);
- removed the Minister's power to direct a council, instead the designated authority will provide advice which must be transparently reported noting that councils are not obligated to follow or action the advice; and
- specifically removed the ability of the designated authority to require councils to provide any information ESCOSA determined. Instead, the information that the designated authority could obtain, and the point in time at which the designated authority was able to request information, were carefully defined.

The DFA appears to be based upon Minister Knoll's 'Rates Oversight Scheme'. It proposes a scope of review, information-gathering powers and the provision of advice in a manner consistent with Minister Knoll's second reading speech.

In this submission, the LGA sets out an alternative proposal that:

- is consistent with the provisions supported by Parliament and now contained in section 122 of the Local Government Act, arising from the commencement of section 79 of the *Statutes Amendment (Local Government Review) Act 2021*; and
- is consistent with the understanding of the arrangements, negotiated with and agreed to by the LGA and articulated by Minister Chapman in her Explanation of Clauses.

Whilst the LGA's Alternative Proposal is more limited in its scope of review (and resulting costs to councils), it will provide councils with the advice contemplated by Parliament in a manner no less useful to councils than the advice proposed in the DFA.

9 SA Parliament, House of Assembly Official Hansard, Legislative Review Committee, the Hon V.A. Chapman (Bragg—Deputy Premier, Attorney General, Minister for Planning and Local Government), [Statutes Amendment (Local Government Review) Bill Committee Stage, 13 October 2020].

3. Principles

ESCOSA's regulatory approach

ESCOSA has set out its approach to regulation and advisory work, through its Charter of Consultation and Regulatory Practice.[10] It has also set out relevant principles for administering the SMP Advice Scheme in the DFA.

The LGA has considered the application of ESCOSA's general regulatory principles, as described in its Charter, to the approach outlined in the DFA.

ESCOSA Principle	Application of the Principles to the DFA
Define the issue	The LGA strongly supports this principle. It is important that the SMP Advice Scheme clearly articulates the 'problem' that it is seeking to address. Minister Chapman articulated the purpose of the SMP Advice Scheme in her Explanation of Clauses in Parliament. On a number of occasions in her explanation, Minister Chapman states that the primary purpose of the amendments to the scheme within the LG Reform Act is to increase "transparency" and deliver confidence to the community that council's SMPs are subject to independent review and advice. The LGA believes that the DFA is incorrectly based on the premise that the issue to be addressed is council rates, rather than the reasonableness of councils' SMPs and changes to those plans. For clarity, the LGA notes that the purpose of the SMP Advice Scheme is not to respond to an articulated concern with council rate increases. The 44th South Australian Parliament formally considered rate capping or rate monitoring Bills on four occasions[11]. The Parliament did not support any of these proposals.

10 ESCOSA, Charter of Consultation and Regulatory Practice, November 2019, page 5
11 The Local Government (Rate Oversight) Amendment 2018 Bill (Local Government Minister Knoll), the Local Government (Fixed Charges) Amendment Bill 2018 (John Darley MLC) and the Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018 (ALP) as well as the first version of the Statutes Amendment (Local Government Review) Bill (which was later amended to remove the rate monitoring elements).

ESCOSA Principle	Application of the Principles to the DFA
Address the issue through a proportionate response	The LGA strongly supports this principle. The LGA is concerned that the costs of the proposed DFA scheme to councils (estimated at $52,000 per council, per review) are disproportionate compared with the value of the advice to be received. The LGA is not persuaded that the information intensive approach proposed is a proportionate solution. To comply with this principle, ESCOSA should adopt a more modest, high-level review with reduced costs to ratepayers. The LGA has provided ESCOSA with an alternative proposal that is consistent with the provisions of the SMP Advice Scheme and able to be delivered at a lower cost. As part of the proposed scheme ESCOSA intend to review historical records going back to 2007. The LGA is concerned about the relevance of such historical records, the resources required to obtain this information and the likely low value resulting from this resource commitment by councils.
Analyse possible actions, including costs and benefits to the community	The LGA supports this principle. In the case of the SMP Advice Scheme, ESCOSA must balance the benefits flowing to council from their advice (on the one hand) with the cost to councils and the resulting upward pressure on council rates (on the other hand). It is noted, for example, at the District Council of Kimba the proposed $52,000 cost for ESCOSA's advice equates to almost 3% of rate revenue. In this document, the LGA articulates an Alternative Proposal which achieves the statutory requirements and minimises the cost to councils. The LGA maintains that, unless the additional benefit of the DFA proposal can be convincingly articulated, a modest, high-level review at a lower cost to the community is preferred.

ESCOSA Principle	Application of the Principles to the DFA
Continuously improve through monitoring and evaluation	The LGA supports this principle. To support this principle, ESCOSA should use the first four-year cycle to understand the environment in which each council operates and the maturity of the SMP's and strategic planning process. This is a risk-based approach and would allow ESCOSA to identify the key issues which require monitoring and improvement over time. Recognising the requirement that the prescribed period must not be less than three years, ESCOSA has the discretion to consider including fewer councils in the first year of the four-year cycle to support continuous improvement of the SMP Advice Scheme.

Principles in the DFA

The scheme-specific principles proposed by ESCOSA in the DFA appear to be consistent with the legislative amendments and are a sound basis for designing a limited, high-level review as contemplated by the legislation.

However, the LGA is not convinced that these principles have been applied in designing the DFA. In particular, despite indicating that a focus will be given to key overarching targets and measures, the scope of information required from councils indicates a more granular level of review. The DFA appears to delve into a deeper level of operational data which, given the volume of required information outlined, adds complexity both to councils in terms of responding and ESCOSA in terms of analysis required.

The LGA contends that it is more appropriate for a council to provide existing documents than it is to compile information into new documents. The LGA supports the use of data already available to ESCOSA via the SA Local Government Grants Commission. The proposed DFA includes requirements for councils to provide information that will require a significant amount of work from councils to populate the templates provided. The LGA again notes that each additional document reviewed by ESCOSA adds to the scope of the review, the time taken by ESCOSA personnel to analyse the information provided (including comparing the information contained in each document with each other document provided), and the resulting costs of the review.

The proposed approach does not appear to be proportionate, nor targeted to the different contexts of each council. An approach that would be more consistent with the scheme-specific principles is one that starts with a review of the SMPs of each council and then delves into further analytical detail only to the extent required.

With regard to Principle 5 (DFA, p13): it is noted that the LGA does not collect data, the LGA utilises whole of sector data from the SA Local Government Grants Commission database reports. The LGA is not a party to the ESCOSA SMP Advice Scheme and is not subject to ESCOSA's information-collecting powers contained in section 122.

4. ESCOSA Proposal

Scope of Review

The words of section 122

Section 122 of the Local Government Act requires ESCOSA to undertake a review of two key elements of councils' Strategic Management Plans, namely the Long-term Financial Plan (LTFP) and the Infrastructure and Asset Management Plan (IAMP).

Councils are required[12] to provide ESCOSA with information regarding the following matters (the '***relevant matters***'):

- material amendments made or proposed to be made to the council's LTFP and IAMP;
- revenue sources outlined in the council's funding plan[13] (a mandatory component of the LTFP); and
- other matters prescribed by Regulations[14] (no such regulations are currently in place or proposed).

ESCOSA is then required[15] to:

- provide advice to the council on the appropriateness of the 'relevant matters' in the context of the council's LTFP and IAMP; and
- may provide advice to councils in relation to any other aspect of the council's LTFP and IAMP.

The provision of information by councils and the consequential advice that ESCOSA provides *must* relate to the LTFP and IAMP and the relevant matters.

ESCOSA interpretation of section 122

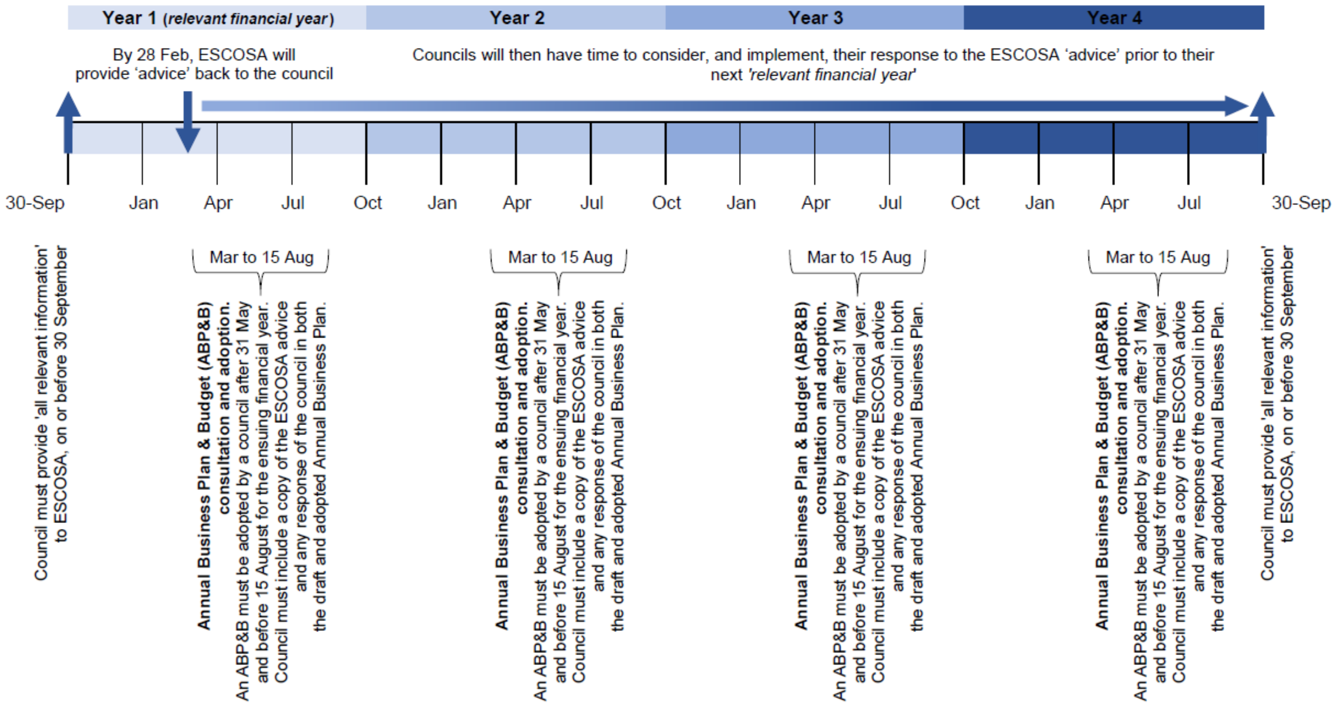
In the LGA's view, ESCOSA's principles of long-term planning focus, materiality and simplicity are negated through the granular approach taken by ESCOSA, demonstrated by the detailed information requested and the approach outlined in the DFA.

Previous iterations of the SMP Advice Scheme were contained within section 123 of the Local Government Act and were focused on rates. The final version of the Scheme and its placement in section 122—Strategic management plans emphasises the longer-term and strategic focus of the scheme.

The following diagram sets out the four-yearly cycle of the SMP Advice Scheme, which reinforces the view that this is a monitoring scheme over time, not intended to assess annual budget decisions or operational matters.

12 Section 122(1e), *Local Government Act 1999*
13 The provisions in section 122(1a) of the *Local Government Act 1999* relating to the funding plan will commence on 30 June 2023. Until that time, transitional regulations are in place which provide that the requirement will be satisfied if the council provides the designated authority with all relevant information on the intended revenue sources of the council's projected total revenue for the period to which its long-term financial plan relates (such as revenue from rates, grants and other fees and charges).
14 As at the date of this submission no regulations are in place and the LGA understands there is no current intention to make such regulations.
15 Section 122(1f), *Local Government Act 1999*

ESCOSA SMP Advice Scheme Timeline



Note: Councils must provide information once in every prescribed period (currently 4 years) in accordance with a schedule determined by ESCOSA. It is expected that councils will be divided into four tranches & the financial year in which a particular council is required to provide information according to the schedule will be the ***relevant financial year*** for that council.

Section 122(1g)(b) provides that, in providing advice under this section, ESCOSA:

> "*may have regard to any information or matter the designated authority considers relevant (whether or not such information or matter falls within the ambit of subsection (1e)).*"

Section 122(1g)(b) does not authorise an increase in the scope of ESCOSA advice, it enables ESCOSA to ***have regard to*** additional relevant information but does not alter the matters upon which ESCOSA must give advice.

At page 9 of the DFA, ESCOSA argues, "*Overall, the allowable scope and the information used to inform the Commission's advice is broad, with the existing statutory requirement for councils to maintain and implement LTFPs and IAMPs central to the advisory process*".

The LGA contends:

- The SMP Advice Scheme is *entirely* about the LTFP and IAMP and "the relevant matters". Section 122 provides guidance to ESCOSA on the matters it is entitled to take into account, however, this does not result in a broadening of the scope of the advice.
- The scope of the review is not "broad". As Minister Chapman explained to Parliament, the scope had been refocused from council's annual business plans to the revenue decisions made in the context of the LTFP and the IAMP. The scope of the review is specifically limited by the terms of the section.

- Section 122(1e)(c) provides that what is included in the 'relevant matters' can be broadened by Regulation. The inclusion of a specific process for extending the scope of the designated authority's review further implies that it is not open to the designated authority to broaden its review scope. It follows that the power in section 122(1e) should be read as a power to make guidelines about *how* information on the relevant matters is provided.

Consistent with the regulatory principles of 'define the issue' and 'address the issue through a proportionate response' ESCOSA should demonstrate within the DFA and supporting information guidelines that all of the requested information is necessary and reasonable for it to discharge its legislative function under section 122 of the Local Government Act.

ESCOSA Act objectives do not support an increase in scope

ESCOSA's objectives[16] do apply when performing its functions (which include the functions assigned to ESCOSA pursuant to section 122). However, it is clear that ESCOSA's statutory objectives are largely not relevant and are ill-suited to the performance of duties pursuant to the section 122 review. Nevertheless, Parliament has the power to require ESCOSA to perform additional tasks, beyond its statutory mandate and has determined that in the absence of regulations, ESCOSA is the designated authority for the purposes of section 122. In establishing the SMP Advice Scheme, Parliament has set out the scope of the review which is self-contained in section 122.

Section 122(9) makes it clear that ESCOSA need not be the designated authority. The body responsible for conducting the section 122 review can be prescribed by regulation. The LGA notes that no regulations have been made at this time, however, the ability to prescribe the designated authority via regulation reinforces the argument that the scope of the section 122 review is self-contained within section 122 and the designated authority need not draw on other legislative provisions available to it.

Scope of review - summary

The LGA submits that the required scope of review is set out clearly in sections 122(1e) and (1f), namely a review of the 'relevant matters' in the context of a council's LTFP and IAMP.

Sections 122(1f)(b) provides ESCOSA with a limited discretion to consider other aspects of the LTFP and IAMP.

The LGA does not support the exercise of this discretion until a case can be established that justifies this level of additional regulatory intervention (i.e. what is the problem that needs to be solved?). As set out below, concerns about council rate increases are not based on empirical evidence. In any event, the determination of council rates is a matter for the elected representatives of local communities.

Section 122(1g)(a) requires ESCOSA to have regard to 'objectives'. The first of these is

> "*the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans*".

16 Section 6, *Essential Services Commission Act 2002*.

This is a statutory obligation of councils, required in section 122(1a)(a) and (b). In effect, ESCOSA must have regard to the objective of a council complying with the Local Government Act in this respect.

The second of these is

> "*the objective of ensuring that the financial contributions proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan are appropriate and any material amendments made or proposed to be made to these plans by the council are appropriate;*"

Above section 122(1g)(a)(ii) effectively restates one of the 'Objects' of the Local Government Act, namely Object 3(f), which provides

> "*to encourage local government to provide appropriate services and facilities to meet the present and future needs of local communities and to provide for appropriate financial contributions by ratepayers to those services and facilities*".

Essentially, councils have an obligation to pursue the Objects of the Local Government Act and ESCOSA must have regard to this objective in providing its advice.

The LGA does not consider that anything in section 122(1g)(a) requires or invites ESCOSA to make its own judgment, independent of the elected members of a council, about what is 'appropriate' in terms of financial contributions to be made by ratepayers of that particular council.

The use of the expression "may" in section 122(1g)(b) provides a discretion for ESCOSA to have regard to information it considers relevant as it develops its advice on the relevant matters, the LTFP and the IAMP. Section 122(1g) provides guidance to ESCOSA on the provision of advice to councils, but it does not authorise an increase in the scope of the advice, nor does it form the essence of the Scheme.

The LGA's member councils have reviewed the proposed scope of review set out in the DFA and are unanimously opposed to the significant expansions of the scope, which goes beyond that articulated by Minister Chapman in her explanation of clauses.

The LGA is concerned that ESCOSA's expansive interpretation of the ambit of its review will result in significant additional work by council administrations to create and supply additional information. This interpretation is also a primary driver for the significant additional costs that ESCOSA propose to invoice each council.

Information gathering powers

Whilst ESCOSA has information gathering powers pursuant to Part 5 of the *Essential Services Commission Act 2002* (ESCOSA Act), these powers are replicated in section 122 and therefore readily available to ESCOSA without the need to draw on the ESCOSA Act provisions. The LGA maintains that the SMP Advice Scheme is self-contained within section 122 and able to be administered effectively, irrespective of the designated authority appointed.

ESCOSA's information gathering powers must be seen in the context of the purpose of section 122: a review of the LTFP and IAMP. The information-gathering powers of ESCOSA must be exercised in the performance of their defined statutory tasks. The LGA argues that a limited, high-level approach to a review of LTFP and IAMP, with an initial focus on understanding the context for each council is critical to the nature of the advice to be provided, consistent with the regulatory principles and should limit the volume of information required in the first instance.

Section 122 sets out a clear timeline for the provision of information to ESCOSA:

- information on the LTFP, IAMP, and relevant matters must be provided by the council by 30 September in the relevant financial year.
- This occurs *once* every prescribed period (i.e., once every four years).
- Any guidelines issued under Section 122(1e) cannot require production of any additional information (in the LGA's view, the guidelines only relate to the manner in which information is provided).
- Section 122(1g)(b) is not a power to gather additional information. It merely entitles ESCOSA to have regard to information that it has lawfully obtained.
- The power set out in section 122(j) is a residual power. As sections 122(1c) and (1e) carefully regulate the timing and nature of the provision by councils of information relating to LTFPs, IAMPs and the relevant matters, it can be presumed that section 122(1j) relates to the collection of information relevant to ESCOSA's functions under section 122 more generally, not the provision of advice to a particular council in a particular instance.
- Even if ESCOSA does have a power to obtain a document under section 122(1j) in connection with providing advice to a particular council, this does not mean that the scope of the advice widens. Rather, the information can be used to assist ESCOSA to provide advice on the LTFP and the IAMP only.

Subsequent to the release of the DFA, ESCOSA advised the LGA that ESCOSA was now in possession of all of the historical council data required to provide the advice and that consequently councils would not be required to furnish this information. If correct, the LGA appreciates the reduced impact on council resourcing required to support the review. The LGA reiterates that the power to obtain a document or the mere existence of information in ESCOSA's possession does not result in a broadening of the scope of the advice ESCOSA is required to provide.

In light of ESCOSA's updated advice that it has the historical information required, the LGA anticipates that the information guideline published with the DFA will be updated to remove reference to this historical data and the supporting excel spreadsheet will not need to be populated by councils.

Costs

Section 122(1k) of the Local Government Act provides:

> *"The designated authority may recover from a council (as a debt due from the council) the costs reasonably incurred by the designated authority in performing its functions under this section in relation to the council."*

The critical words in section 122(1k) are "*in relation to the council*". This can be distinguished from:

- costs incurred in performing its functions in relation to <u>all</u> councils; and
- costs that are incurred that are not directly related to performing its section 122 functions. This includes costs relating to accommodation, IT, recruitment, and other administrative costs. It would not be permissible, for example, to assign a percentage of the costs relating to the preparation of ESCOSA Board papers. Similarly, time spent by ESCOSA staff:
  - designing the section 122 review scheme;
  - explaining the scheme and preparing materials to explain the scheme;
  - liaising with Ministers and other government agencies in relation to the scheme; or
  - seeking advice, including legal advice, on the scheme.

Section 122 does not authorise ESCOSA to recover its costs in establishment of the SMP Advice Scheme. The words in section 122(1k) can be contrasted with other sections of the Local Government Act (and related legislation), where the recovery of establishment costs is specifically provided for. For example:

- Section 262M entitles the new Behavioural Standards Panel to recover from the LGA "*the reasonable costs of **establishing the Panel**, and the reasonable **ongoing administrative and operational costs** of the Panel*".
- Section 13 of the *Local Government (Elections) Act 1999* provides "***All costs and expenses incurred** by the returning officer in carrying out official duties must be defrayed from funds of the council*". This is not expressed as 'all costs relating to the performance of the returning officer in relation to the council'. It is expressed as 'all costs'.

It is a well-understood principle of taxation and revenue law that the power to compulsorily extract fees, taxes and charges from individuals and organisations must be expressly provided for in the relevant legislation and cannot be implied. There is no express power entitling ESCOSA to recover establishment and the other examples of costs, set out above.

On that basis, the LGA does not support the recovery of set-up and development costs except where the costs can be specifically attributed to ESCOSA performing its functions in relation to a council.

Billing and allocation of costs

The LGA does not support the ESCOSA proposed approach to timing of billing in relation to the SMP Advice Scheme. The DFA suggests councils will be invoiced at the end of the first quarter of the financial year and be subject to a one-month period within which to pay the bill. Councils are required to provide the relevant information to ESCOSA on or before 30 September. The proposed invoice timing equates to councils pre-paying for advice that has not yet been received.

Any invoice issued at the end of the first quarter will not include information relating to the work undertaken by ESCOSA as a basis for the total cost of the invoice. Given section 122(1k) provides for the recovery of costs incurred in the performance of functions under the section in relation to the council, it would be reasonable for councils to be provided with that detail in the invoice.

The preferred alternative is for ESCOSA to bill councils after the provision of advice, i.e. any time after 28 February. This timing would allow a detailed invoice, setting out the component costs of the functions performed to be provided to each council.

The LGA supports the provision of one invoice to councils.

For clarity, the LGA does not support ESCOSA billing the LGA the total yearly cost associated with the SMP Advice Scheme.

The LGA recognises there is value to councils to receive an estimate of proposed costs for the SMP Advice Scheme in advance. Councils are familiar with this practice in relation to four-yearly elections as the Electoral Commission SA provides anticipated costs in advance of the elections, with invoices for actual costs provided upon completion of the election. The estimate informs budget processes and, while not binding on ESCOSA, will allow councils to factor the costs in for the relevant financial year.

Whilst the LGA accepts there is no prior information available to precisely establish the costs of ESCOSA performing its functions under section 122 in relation to each council, the LGA does not agree that it will take the same amount of effort per council to implement the new scheme. The LGA agrees with ESCOSA's view that "it is the Commission's effort per council that drives its costs" and, by extension, that the actual effort expended should form the basis of cost allocations to councils.

When considered in conjunction with the LGA's proposed timing for billing, this approach would enable ESCOSA to calculate the actual effort expended in relation to each council and bill accordingly. This approach is also likely to minimise material differences arising between actual costs and projected costs and result in councils not paying more than is required.

5. Financial sustainability

The nationally-agreed definition of financial sustainability for the local government sector is:

> *A council's long-term financial performance and position is sustainable where planned long-term service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services.*

The DFA[17] states that ESCOSA has considered the concept of 'financial sustainability' in the context of three elements:

1. *Program stability: This relates to the provision of reliable quality services over time, and requires a stable and consistent set of actions, from the perspective of day-to-day operational practices and infrastructure management.*

Local government programs and services are not necessarily 'stable' over time. Council programs and services fluctuate based on identified community needs and expectations, council determined service levels and endorsed strategies and plans.

The Scheme set out in section 122 does not contemplate the designated authority providing advice on 'day-to-day operational practices' or 'service risk profile', nor should the SMP Advice Scheme consider such a level of detail. Elected members are entitled to make changes to the manner in and extent to which services are provided to their community. ESCOSA advice under the SMP Advice Scheme therefore should be limited to high-level advice enabling elected members to understand the implications of their revenue decisions with reference to their LTFPs and IAMPs.

2. *Rate stability: This relates to charging ratepayers reasonably to fund the services, underpinned by the program of works noted previously (program stability). Rates should be stable, noting that stable does not mean a fixed value. It relates to rates not exhibiting large or unplanned year-on-year variances.*

Local government **total revenue sources** are not necessarily 'stable' over time. There are many historical examples of 'shocks'[18] to the local government sector, for example, the freeze to the indexation of federal Financial Assistance Grants, increased Solid Waste Levy and, of course, COVID-19. In response to the latter, many councils implemented a zero percent rate increase as a means to provide some financial relief to communities impacted by the pandemic. This 'unplanned variance' was considered appropriate by councils as a means of offering support during unprecedented times.

Whilst rates are set on an annual basis, councils have a long-term focus on financial sustainability and make revenue decisions in that context, rather than year on year.

3. *Intergenerational equity: This relates to fairly sharing services and the associated cost between current and future ratepayers. It requires adopting sound long-term financial management principles, particularly in relation to the balance between debt and cash in financing service delivery.*

17 Page 2, *Local Government Rates Oversight Scheme – Draft Framework and Approach* (March 2022), Essential Services Commission of SA
18 Refer Appendix 2—*Shocks to local government – external $ impacts*

South Australian councils are very alive to the need to consider intergenerational equity and predominately have funded council infrastructure via council rate revenue which shares costs across a broad base. The Australian Government's '*Developer Contributions: How should we pay for new local infrastructure?*'[19] paper noted:

> *Traditionally, state and local governments used general taxation and rates revenue to fund infrastructure. But these budgets are increasingly constrained and stretched, putting pressure on governments to find other ways to fund new infrastructure that meets community expectations. Nowadays, developer contributions mean new homebuyers are shouldering more of these costs relative to previous generations, who purchased when the costs were much more broadly shared amongst taxpayers and ratepayers.* ***In this sense, the increasing use of developer contributions to fund local infrastructure reduces intergenerational equity.***

The local government sector considers the concept of financial sustainability in the context of the three key financial indicators and associated target ranges which have been adopted by the sector:

1. Operating Surplus Ratio (Generally accepted target range of between 0% and 10%)
2. Net Financial Liabilities Ratio (Generally accepted target range of between 0% and 100%)
3. Asset Renewal Funding Ratio (Generally accepted target range of between 90% and 110%)

The LGA believes that ESCOSA should focus on whether a council has operated within the identified target ranges over the longer term and, if not, what the council's plan is to bring the ratios back within the target ranges over a considered period of time. This aligns with ESCOSA's principle of 'materiality' which states that 'focus will be given to key overarching targets and measures'.

19 Developer contributions – How should we pay for new local infrastructure?, (August 2021), National Housing Finance and Investment Corporation

6. The review is not about 'rates'

The DFA appears to have an undue focus on council rates, with less emphasis given to other funding sources necessary to support council services.

This is clear from the DFA where the graphs relating to revenue sources are broken down only by 'rates' and 'other revenue'. Rate revenue is further broken down to 'average rates per rateable property' with a comparison of what the average rates per rateable property would have been if increases had been 'constrained to CPI'.

The LGA strongly objects to the use of the term 'CPI-constrained' in any advice or public information to be provided by ESCOSA and to the implication that councils should be 'constrained' to CPI.

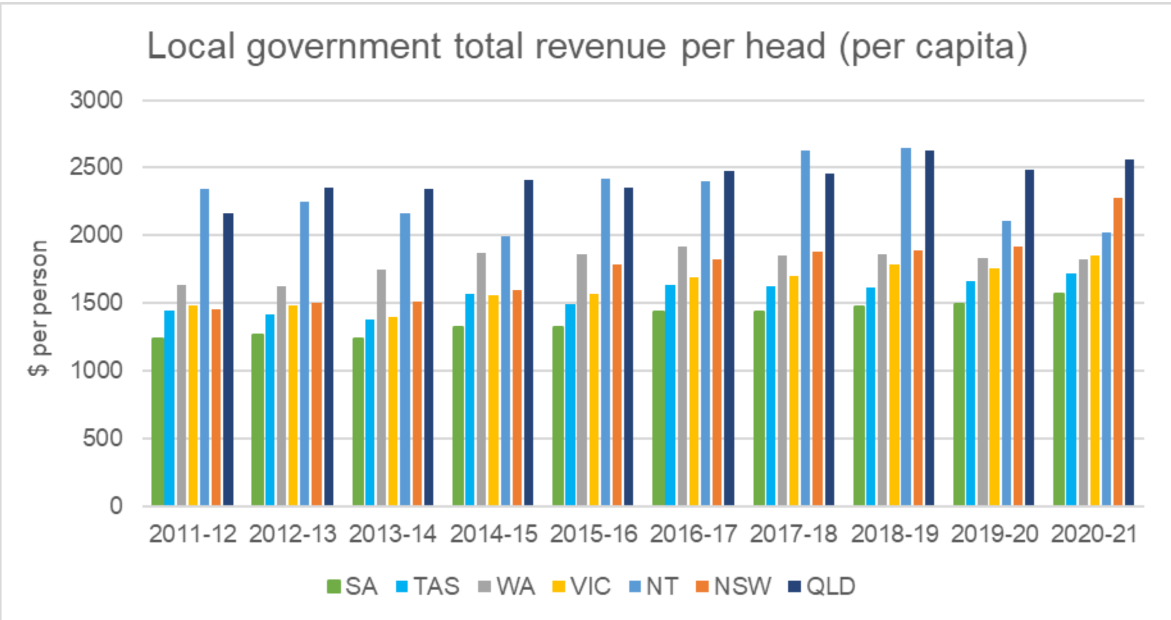
In discussions with ESCOSA during the preparation of this submission, ESCOSA indicated that it would not continue with the use of CPI constrained analysis. The LGA anticipates this undertaking will be confirmed in the final Framework and Approach.

The Local Government Act provides discretion for councils to determine the reasonable assumptions to be used in the development of their LTFP. These issues were comprehensively reviewed as part of the passage of the *Statutes Amendment (Local Government Review) Act 2021* and ultimately councils were not required to use specific indices.

Rather, councils now have an obligation to include the assumptions used in the development of their LTFP. In attempting to only give weight to one inflation index and discounting others, ESCOSA inappropriately limits the discretion bestowed upon councils under the Local Government Act.

Assessing a council's financial performance via a narrow focus on 'average rates per rateable property' 'constrained to CPI', without considering all revenue sources and the factors which influence a council's consideration of the distribution across those revenue sources, is overly simplistic and fails to appreciate the complexity of the environment in which councils operate.

Australian Bureau of Statistics data confirms that local government in South Australia has consistently operated with the lowest total revenue per head of any jurisdiction over at least the last decade.



Based on ABS Data 2022. Source: Government Finance Statistics, Australia and Australian Demographic Statistics.

Section 122 of the Local Government Act focusses the designated authority on the '*revenue sources outlined in the funding plan referred to in subsection (1a)(a)*[20]'; subsection (1a)(a) does not contemplate rate revenue in isolation, nor does it provide for consideration of 'average rates per rateable property'.

Many councils use differential general rates, where a council may charge a different rate in the dollar depending on whether the land is used for residential, commercial, primary production, industrial, vacant land or other purposes. Different rates can also be used for different areas within a council, such as between townships and rural areas, or they can be applied according to both the use and location of the land.

What might appear to be a 'simple' normalisation methodology at first (i.e.,'average rates per rateable property'), may not actually enable meaningful conclusions to be drawn and does not account for the specific circumstances within each individual council area including the distribution of land uses (for example, one council may have a higher proportion of commercial and industrial properties or primary production properties than other council areas).

ESCOSA has given significant emphasis throughout the DFA to affordability (particularly in relation to ratepayer demographics) of the LTFP and IAMP, the assessment of affordability for a council's ratepayers is a primary obligation of the Elected Members, in consultation with their respective communities. However, assessing data at this level of detail takes the focus of the SMP Advice Scheme beyond what is required to understand the 10-year LTFP and IAMP.

It is not clear how the proposed analysis of rates, particularly in the absence of analysis of other funding sources, achieves the requirements of the SMP Advice Scheme.

The DFA is relatively silent on ESCOSA's proposed approach for advising councils on their IAMPs, which further supports the perception that ESCOSA's proposed approach is centred on financial matters, particularly council rates. ESCOSA will be well placed to advise councils on the key issues they face when managing assets, such as the importance of integrating asset management with financial management and understanding the relationship between asset management and intended service outcomes. This is a critical component of the framework established under section 122 and one that is deserving of greater focus by ESCOSA, with much less emphasis being placed on rates.

Revenue sources in the funding plan

Councils predominately provide 'public' goods and services which provide benefit to the community as a whole (i.e. roads and footpaths, libraries, community centres, parks and gardens). However, they do also provide a number of 'private' goods and services which deliver benefit to a smaller proportion of the community or to individual(s) (i.e. hiring a council town hall for an event, or cemetery lease/license).

Under section 122(1a)(a)[21], a council must have a long-term financial plan which must include a funding plan that:

(i) outlines the council's approach to funding services and infrastructure of the council; and

20 Section 122(1e)(b), *Local Government Act 1999*

21 As noted previously, the provisions in section 122(1a) of the *Local Government Act 1999* relating to the funding plan will commence on 30 June 2023. Until that time, transitional regulations are in place which provide that the requirement will be satisfied if the council provides the designated authority with all relevant information on the intended revenue sources of the council's projected total revenue for the period to which its long-term financial plan relates (such as revenue from rates, grants and other fees and charges).

(ii) *sets out the council's projected total revenue for the period to which the long term financial plan relates; and*

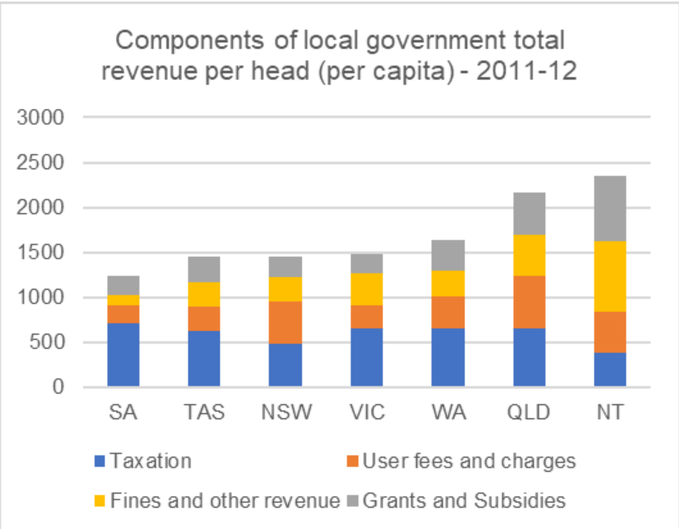
(iii) *outlines the intended sources of that total revenue (such as revenue from rates, grants and other fees and charges);*

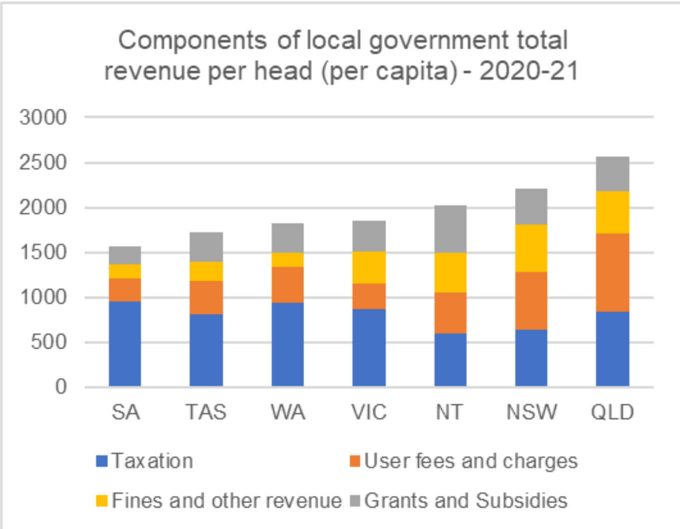
Councils generally have four main sources of revenue that they can access to fund the provision of goods and services: council rates (taxation), grants and subsidies (mainly Financial Assistance Grants from the Commonwealth Government which is paid to the State Government and then distributed to councils via the SA Local Government Grants Commission), user fees and charges (from the sale of goods and services), and fines and other revenue (infringements, interest, etc).

A council, in considering their 'intended sources of revenue' to fund services and programs identified in the LTFP and IAMP(s), will need to consider the appropriateness of the distribution across the intended revenue sources, i.e., what is appropriate to be funded via rate revenue (generally 'public' goods and services) and what is appropriate to be funded via user fees and charges (generally 'private' goods and services)[22]. Often it is not simply a case of one or the other but about all the potential revenue sources being considered in unison.

The graphs below provide a comparison of revenue per head across the four main sources of revenue. The difference in quantum of some revenue sources is due to the differences between the services and programs which are offered in each local government jurisdiction, notably Queensland, where Brisbane City Council has been heavily involved in operating the city's buses for approximately 90 years and have a fleet of more than 1200 buses.

South Australian councils predominately use rates revenue to fund council services, infrastructure, and programs whilst still operating with a lower level of total revenue per head than other jurisdictions.





Based on ABS Data 2022. Source: Government Finance Statistics, Australia and Australian Demographic Statistics.

22 Australia's future tax system – Report to the Treasurer, (December 2009), found that '*User charging, when implemented correctly, is an appropriate funding mechanism for local governments to deliver private goods and services'*.

Taxation (council rates)

Overall, council rates are a relatively simple, efficient, and fair tax[23] in that they are collected from a broad base.

Limiting what a council can collect in rates[24] (as is the case in New South Wales and Victoria which have 'rate pegging' and 'rate capping' schemes respectively) puts pressure on councils to raise additional revenue via other streams; this may be through increasing user fees and charges, by seeking additional grants and subsidies from other levels of government, or by considering other revenue generating activities (potentially interfering with private sector markets).

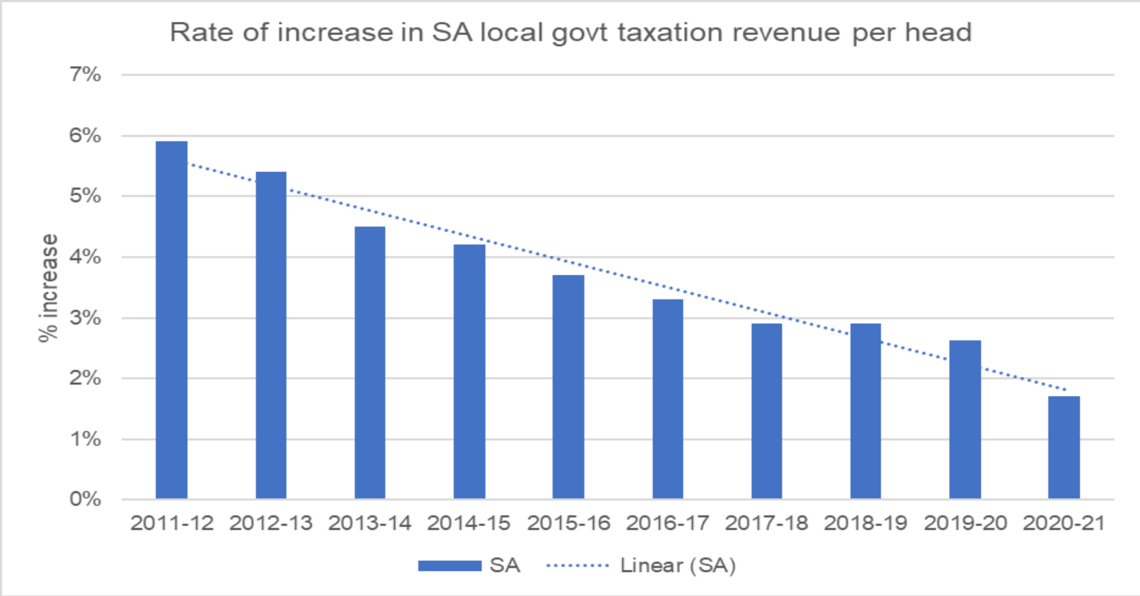
A report by the Australian Institute's Centre for Future Work[25] on the Victorian government's policy of capping rate increases found revenue from other sources, including user fines, fees and charges, had grown by more than 6% each year since the cap was introduced.

The '*Review of Infrastructure Contributions in New South Wales*'[26] recently undertaken by the NSW Productivity Commission noted:

> *The general findings from consultations are that, over the long term, rate pegging has resulted in:*
>
> - *an under provision of local infrastructure and services required to service a growing community*
> - *some infrastructure maintenance costs being capitalised into contributions plans*
> - *increasing cross-subsidisation through alternative funding streams including infrastructure contributions*
> - *pricing distortions resulting from councils imposing higher user-charges.*

If the 'problem' that ESCOSA is proposing to address is increases in council rates, the reality, supported by data sourced from the ABS, is that the percentage increase in local government taxation (council rate) revenue per head has been **trending down in SA over the last decade.** Importantly, this trend commenced well before the COVID-19 pandemic.

23 Australia's future tax system – Report to the Treasurer (December 2009), Australia's future tax system, Chair K. Henry
24 Recommendation 120 from the Australia's future tax system – Report to the Treasurer noted that States should allow local governments a substantial degree of autonomy to set the tax rate applicable to property within their municipality.
25 Putting a Cap on community: The economic and social consequences of Victoria's Local Government Rate Caps Policy (December 2021), The Centre for Future Work at the Australia Institute
26 Review of Infrastructure Contributions in New South Wales – Final Report (Nov 2020), NSW Productivity Commission



Based on ABS Data 2022. Source: Government Finance Statistics, Australia and Australian Demographic Statistics.

User fees and charges

Councils are required by State legislation to provide certain services or undertake particular functions (such as assessing development applications, building inspections, and public health inspections), in many cases the fees and charges that can be collected for providing these services are statutory (i.e., set by the State Government) and do not adequately cover the actual cost of the provision of the service meaning that councils must cross-subsidise the cost of providing this service via rates revenue.

It should also be noted that for a number of years, many of these statutory fees and charges did not receive annual indexation as part of the State Government annual Budget process, until the LGA successfully advocated for annual indexation from around 2012-13.

Fines and other revenue

South Australian councils, particularly in regional areas, have to weigh up the pros and cons of entering into other revenue generating endeavours which, whilst they may increase the amount of revenue that 'could' be received could also potentially interfere with private sector markets (by discouraging the creation of a new private industry/enterprise in a regional area) and/or not directly align with the council's direction. For example, some councils employ parking inspectors whose job it is to regularly monitor compliance and issue expiations (fines) where appropriate. Some councils choose not to employ specific parking inspectors but will deploy General Inspectors or Rangers to deal with complaints regarding non-compliance with parking rules or where parking behaviour is causing a risk to public health and safety. These are two different, but both legitimate, operating strategies which result in very different levels of revenue.

South Australian councils' focus is on the provision of 'public services' that would be of most benefit to their communities, rather than on the operation of revenue-generating 'businesses'.

Grants and subsidies

The Commonwealth 'Financial Assistance Grants' (FA Grants) for South Australian councils are estimated at $168 million in 2021-22. For many regional councils, these grants can make up a significant proportion of their total revenue.

The DFA (pg 2) states that:

> *While councils can provide a diverse range of services, they are generally delivered through infrastructure and operations that require long-term planning. As such, in the absence of significant shocks outside of a council's control, its long-term plans would not be expected to exhibit significant variation through time (replacement/renewal expenditure should not materially vary due to political cycles, or short-term transient operational or financial concerns).*

There have been numerous significant financial shocks affecting grants and subsidies outside of a council's control in recent years.

The Federal Government's decision to freeze indexation on FA Grants in its 2014-15 budget had a significant impact on South Australian councils, with regional communities the hardest hit. The indexation freeze cost SA councils $36 million over the three years it was in place.

The freeze left councils with a choice between seeking additional rate revenue to implement plans which had been developed on the assumption that annual indexation of FA Grants would occur, finding savings elsewhere by reducing costs and/or service levels, using available surpluses, or going into deficit.

FA Grants comprises of two components: general purpose assistance grants and local roads grants. Both components are untied and can be spent according to each council's own priorities. The general purpose assistance component is distributed to states in the first instance on a per capita basis. The local roads grants component is distributed to states on an historical basis whereby South Australia receives only 5.5% of the national pool of funds.

Since 2003, successive Federal Governments have allocated supplementary road funding to South Australia as a temporary fix to rectify South Australia's unfair share of the local roads component (South Australia has 11% of Australia's local roads, and 7% of its population, but only receives around 5.5% of the Identified Local Roads component of FAGs).

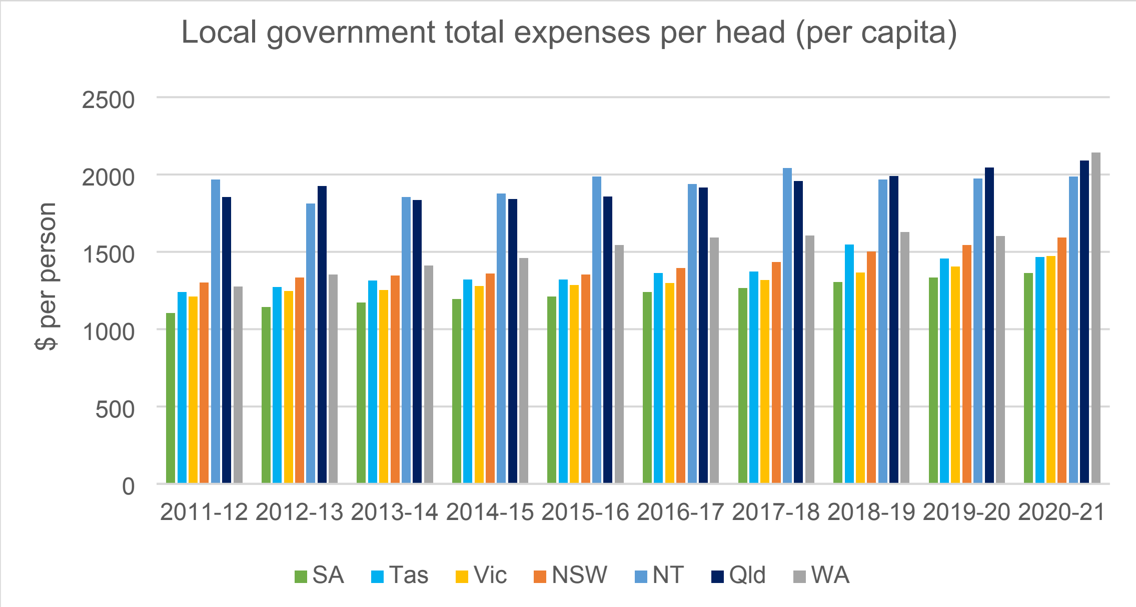
This supplementary funding was cut in the 2014–15 Federal Budget and was reinstated two years later in the 2017-18 Federal Budget at $20 million per annum for two financial years (i.e. 2017-18 and 2018-19). The financial impact of the loss of supplementary road funding was felt sharply by many councils, particularly regional councils with a large local road network to maintain but a very small rate base. The supplementary funding has been subsequently extended by a further two years in both the 2019-20 Budget and 2021-22 Budget, by $20 million per annum. The funding is not guaranteed beyond the 2022-23 financial year.

A ten-year libraries funding agreement between the State Government and LGA – which delivered around $185 million in State Government funding - expired in June 2021. Of this funding, around 65% went to councils and 35% to Public Library Services to operate support services for council libraries and the OneCard network.

As announced in the 2021/22 State Budget, State Government funding for council libraries will be maintained at $20.7 million over the next few years, removing indexation will result in more than $6.05 million less funding over the coming 5-year period.

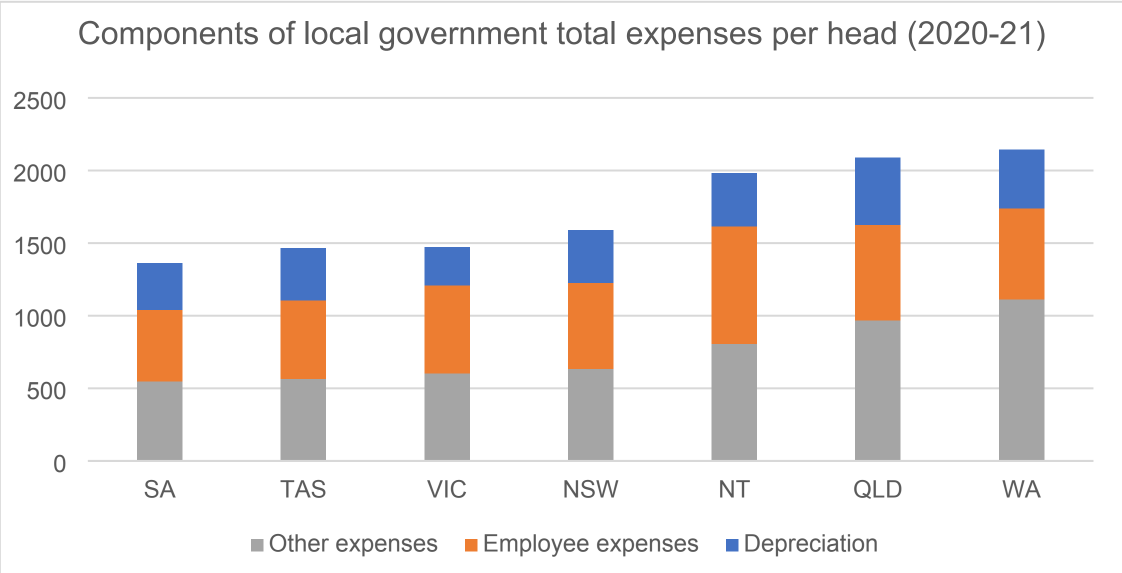
Expenses and cost control

ESCOSA's DFA has also made assertions about 'cost control'. The LGA reject the assertion that this forms part of ESCOSA's remit, however it should be noted that South Australian councils have recorded the lowest total expenses per head of any jurisdiction in the nation for at least the last decade.



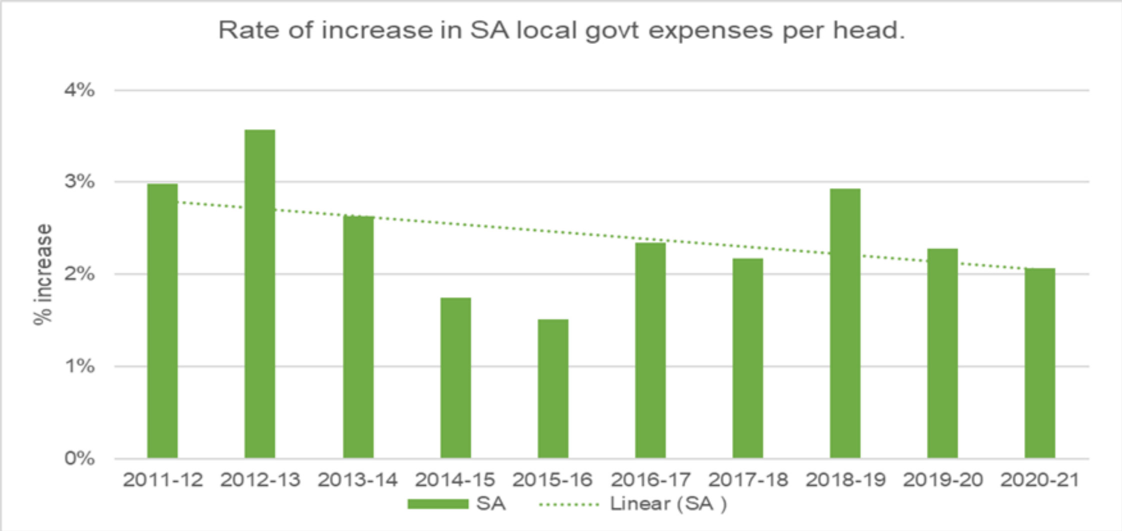
Based on ABS Data 2022. Source: Government Finance Statistics, Australia and Australian Demographic Statistics.

Councils predominately have three major components of expenses, employee expenses, depreciation, and other expenses.



Based on ABS Data 2022. Source: Government Finance Statistics, Australia and Australian Demographic Statistics.

Importantly, the percentage increase in local government expenses per head has generally been **trending down in SA over the last decade.**



Based on ABS Data 2022. Source: Government Finance Statistics, Australia and Australian Demographic Statistics.

Expenses outside of a council's control

The Solid Waste Levy is a tax paid to the State Government by councils, industry and households on the waste that goes to landfill – including household rubbish collected by councils.

The levy started at $5 per tonne. It had risen to $100 per tonne by 2018/19, in January 2020 it rose to an unprecedented $140 per tonne in the metro area and half that in regional SA (second increase of 27% for 2019/20 bringing the total increase to 40%)[27].

The State Government's 40% increase on the Solid Waste Levy cost South Australian councils and ratepayers an extra $8.5 million in 2019/20 (on top of the $34 million councils were already forced to pay).

This is an example of State Government decision making that has resulted in South Australia councils facing unexpected, but significant, increases in costs with insufficient time to incorporate in the budget process and in some cases to adequately consult communities. As a result budgets and LTFP's change at short notice in a manner beyond the control of the council.

Depreciation and the Asset Renewal Funding Ratio

The DFA notes that *'councils have moved from using depreciation as the denominator in the asset renewal funding ratio, to using the IAMP figure for replacement/renewal expenditure. The Commission is proposing to consider the asset renewal funding ratio using both approaches.'*[28]

This does not align with ESCOSA's stated 'Principle 3: Materiality' which says that focus will be given to key overarching targets and measures and 'Principle 5: Leveraging existing information and evidence', councils have an existing target and measure relating to asset renewal, ESCOSA is proposing to impose an additional one.

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27 Bin Tax | LGA South Australia

28 Page 25, *Local Government Rates Oversight Scheme – Draft Framework and Approach* (March 2022), Essential Services Commission of SA

Councils have moved away from using the Asset Sustainability Ratio (which used depreciation as the denominator) due to the inevitable disconnect between depreciation and asset renewal expenditure, when some assets may have 100 year lives or more and require no or little intervention prior to reaching the end of this period.

If ESCOSA consider this additional indicator is necessary then it should be able to calculate this via the information it already proposes to collect, but councils should not be required to calculate and report on another indicator.

Summary

The above data demonstrates that councils have responsibly managed rating decisions for well over a decade. This empirical evidence was also the basis of LGA submissions on multiple occasions, each time persuading the Parliament that there was no justification for a regulatory response to address a problem that was political rather than evidence based.

Councils, led by the Local Government Financial Management Group (SALGFMG) and LGA, have made important reforms in the past decade, improving financial accounting standards and increasing consistency across the local government sector.

Councils' LTFPs and IAMPs have been an important component of this improvement process, but by no means the only factor.

These improvements were, for the most part, not mandated by the Parliament. Instead, they have been introduced in an evolving manner by a local government sector dedicated to continuous improvement and efficiency.

The ESCOSA Charter of Consultation and Regulatory Practice referred to above includes the principles of 'define the problem' and 'address the issue through a proportionate response' as key components of its regulatory approach. However, the DFA sets out a proposed scheme that is inconsistent with these principles.

The LGA submits, based upon independent data, that increases in council rates are not a problem that needs a regulatory solution, including ESCOSA commentary on council rate increases.

Councils provide ratepayers and the wider community with excellent value for money, delivering a wide range of services that would not be possible (or would possibly be much more expensive) if left to the market.

There are also instances where a council provides a service which may not necessarily be economically efficient or even 'viable' in a traditional business sense but because it aligns with community needs or expectations. For example, many regional councils operate airports (around 20 in SA). Many of these airports cost significantly more to operate and maintain then they will ever receive in revenue. They essentially exist to ensure that there is access for the Royal Flying Doctor Service (RFDS) in a medical emergency and the community would be extremely distressed if this service was no longer provided.

There have been examples of financial institutions rationalising branch numbers, particularly in regional areas, leaving communities without a local bank. Some councils set up alternative community bank hubs (not a traditional space that councils operate in) to ensure continuity of service for their communities.

Some councils take active steps where there has been private sector market failure (i.e., where a service will no longer be available to the community if the council does not intervene). This was the case in Streaky Bay where the local council had to step in and purchase the local medical clinic to ensure continuity of service[29]. Whilst not a traditional role for councils, this action was undertaken with strong support from the Streaky Bay community, who accepted the additional costs resulting from the decision.

The LGA submits that ESCOSA should only perform the role explicitly required by section 122 and not expand this role. In providing its advice, ESCOSA must 'have regard to' the objective (which is the objective of councils) of ensuring that 'the **financial contributions** (emphasis added) proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan(s) are appropriate'.

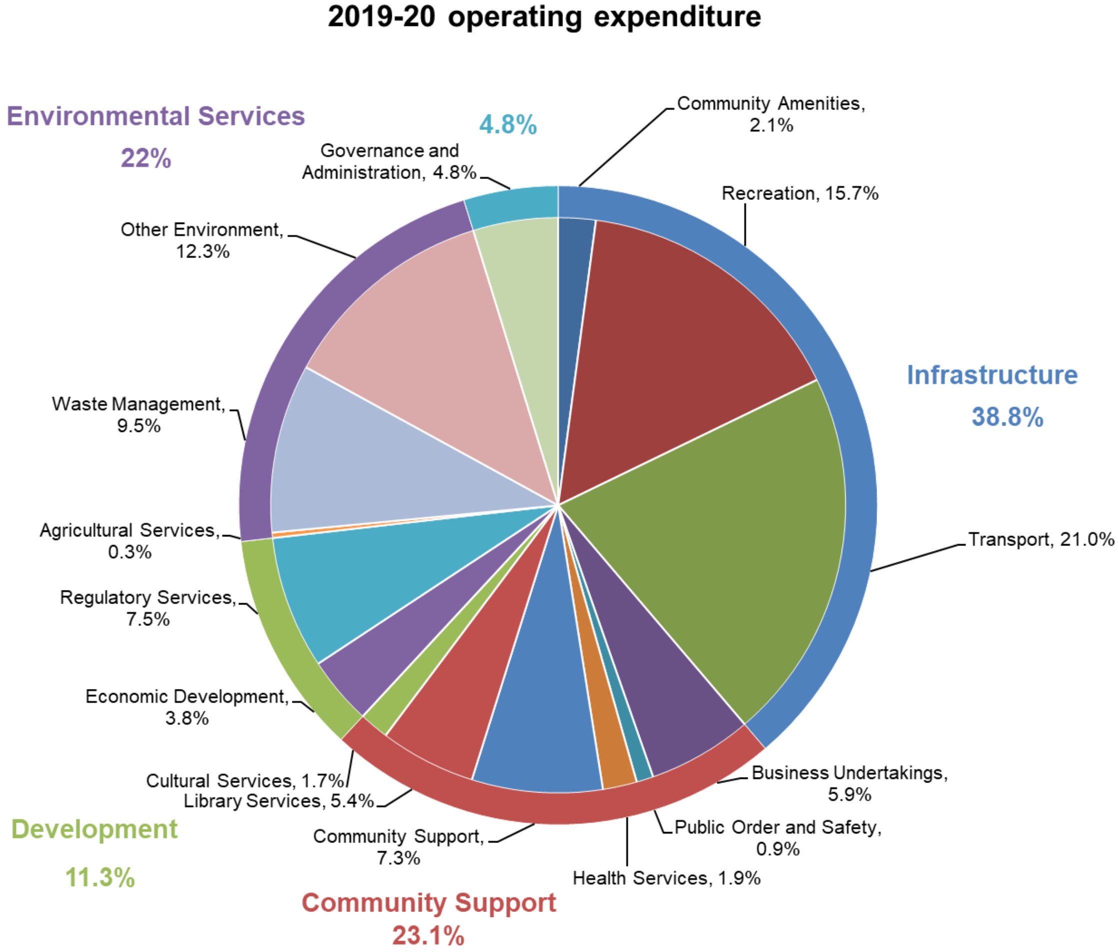
Essentially, ESCOSA must provide advice on the appropriateness of the council's proposed approach to funding services and infrastructure as outlined in the funding plan within the LTFP, and the IAMP(s) (and any material amendments made or proposed to be made to these plans). ESCOSA must have regard to whether the council has given due thought and consideration to the appropriateness of the proposed distribution across the intended sources of total revenue (i.e. rates, grants, and other fees and charges) and the objective of maintaining and implementing the LTFP and IAMP(s).

The 'financial contributions proposed to be made by ratepayers', could be via rates revenue, user fees and charges, or fines (i.e. own-source revenue) and the appropriateness of these contributions must be considered in the context of the quantum of grants and subsidies (i.e. external revenue) being received.

29 *"Dr Zeli Sobantu will return to Streaky Bay as the new permanent doctor"*, (February 2019) Port Lincoln Times

7. LGA Alternative Proposal

South Australian councils collectively manage an annual budget in excess of $2.4 billion and maintain infrastructure and other physical assets worth $26 billion. Generally, the majority of local government's expenditure is directed to '**Infrastructure**' and goes towards transport (i.e. roads and footpaths) and recreation (ie. parks & gardens). This accounted for almost 39% of total expenditure in 2019-20.



Source: South Australian Local Government Grants Commission - Report 9 - Operating Expenses Summary for 2019-20 Financial Year

The LGA supports an SMP Advice Scheme that focuses on LTFP and IAMPs. These documents are critical to informed financial decision making for councils. The relationship of IAMP's to the LTFP provides a clear mechanism for councils to plan effectively for asset maintenance, renewal and replacement over time and allows those decisions to be balanced in the context of annual budget processes.

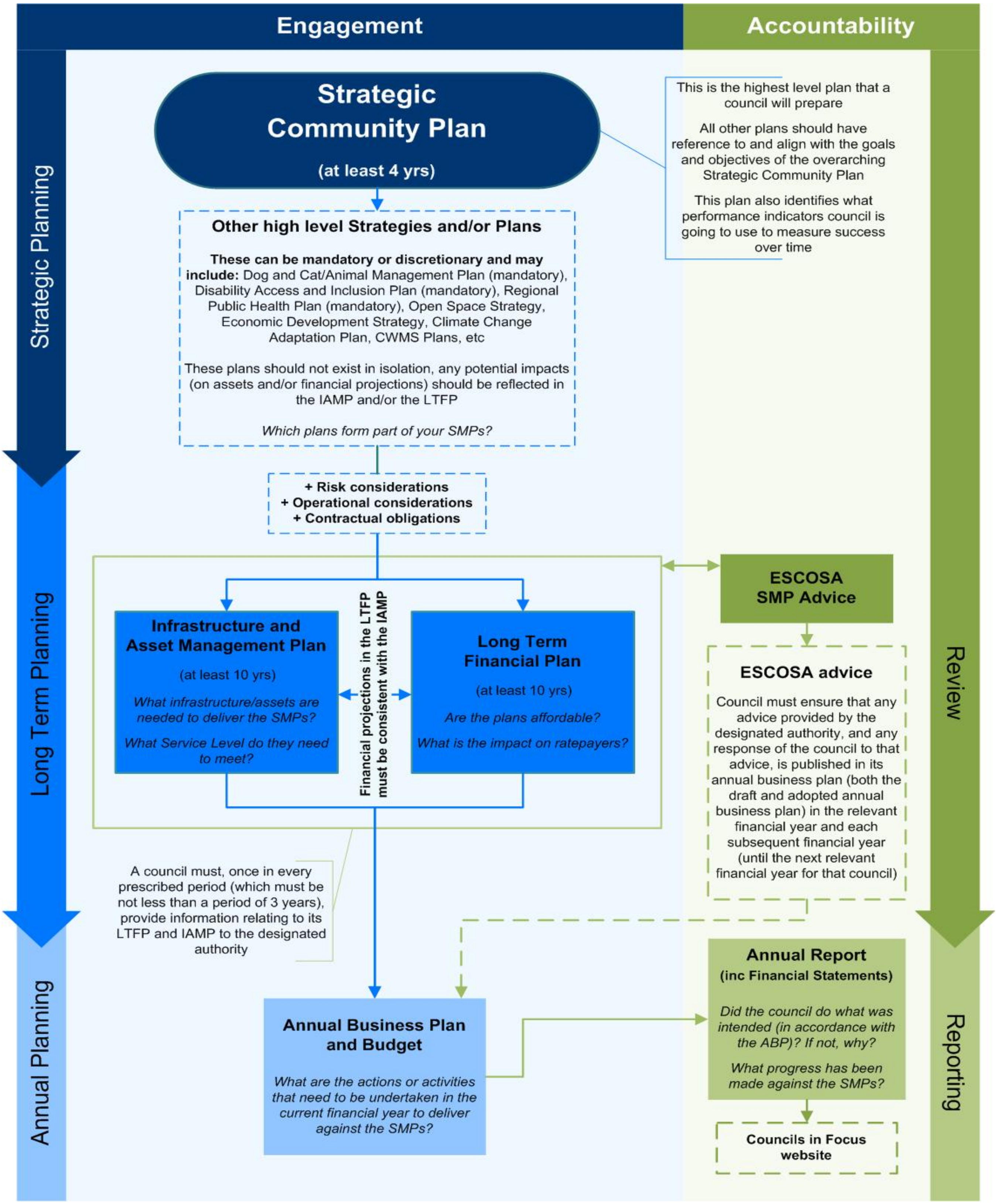
The quality of the financial projections for LTFPs is based, to a large extent, on the quality (and robustness) of the data and assumptions that flow into and from the IAMP(s). It is anticipated that the introduction of an advice scheme to support councils' consideration of amendments to LTFPs/IAMPs will lead to improvements over time in both the quality of the data that informs the IAMPs (as a critical input to LTFPs) and better integration of the IAMPs and LTFPs. This would further promote data-driven financial decision making which is based on a full understanding of the trade-offs and consequences of these decisions.

Councils are in a continuous cycle of consultation and engagement, with community and other key stakeholders, to assist in the development and implementation of goals, objectives and activities within the various council plans. Councils then demonstrate accountability back to the community (and other key stakeholders) via Annual Reports. This accountability now extends to include the provision of periodic submissions to ESCOSA as part of the SMP Advice Scheme.

As illustrated in the figure on the following page, which demonstrates how council strategic management plans work together, council plans and policies should not exist in isolation. The planned activities in the Annual Business Plan should clearly link to longer term goals in the Strategic Community Plan. The IAMPs and LTFP should reflect the specific asset and financial activities which will have an impact on the council's finances. As with any long-term planning process, the longer the planning horizon, the more general the plan(s) will be in the later years of the planning period (i.e., projections in years one to three should be high confidence and reliable whilst later years may be more abstract and speculative) however the plan(s) should always be working towards improving or maintaining financial sustainability over time.

The LTFP and IAMPs aim to capture and model the potential impact of a council's proposed strategic direction. The better a council has integrated all of these plans and strategies into the LTFP and IAMP(s), the less likely they will be at risk due to unplanned variances that are within their control.

Section 122, which focuses on the LTFP and IAMPs is, by its nature, a high-level review and delving into a further level of detail (particularly as a starting point for every council) is not necessary to achieve the broad objective of the SMP Advice Scheme.


Engagement
Accountability
Strategic Planning
Long Term Planning
Annual Planning
Review
Reporting
Strategic Community Plan
(at least 4 yrs)
This is the highest level plan that a council will prepare
All other plans should have reference to and align with the goals and objectives of the overarching Strategic Community Plan
This plan also identifies what performance indicators council is going to use to measure success over time
Other high level Strategies and/or Plans
These can be mandatory or discretionary and may include: Dog and Cat/Animal Management Plan (mandatory), Disability Access and Inclusion Plan (mandatory), Regional Public Health Plan (mandatory), Open Space Strategy, Economic Development Strategy, Climate Change Adaptation Plan, CWMS Plans, etc
These plans should not exist in isolation, any potential impacts (on assets and/or financial projections) should be reflected in the IAMP and/or the LTFP
Which plans form part of your SMPs?
+ Risk considerations
+ Operational considerations
+ Contractual obligations
Infrastructure and Asset Management Plan
(at least 10 yrs)
What infrastructure/assets are needed to deliver the SMPs?
What Service Level do they need to meet?
Financial projections in the LTFP must be consistent with the IAMP
Long Term Financial Plan
(at least 10 yrs)
Are the plans affordable?
What is the impact on ratepayers?
ESCOSA SMP Advice
ESCOSA advice
Council must ensure that any advice provided by the designated authority, and any response of the council to that advice, is published in its annual business plan (both the draft and adopted annual business plan) in the relevant financial year and each subsequent financial year (until the next relevant financial year for that council)
A council must, once in every prescribed period (which must be not less than a period of 3 years), provide information relating to its LTFP and IAMP to the designated authority
Annual Business Plan and Budget
What are the actions or activities that need to be undertaken in the current financial year to deliver against the SMPs?
Annual Report
(inc Financial Statements)
Did the council do what was intended (in accordance with the ABP)? If not, why?
What progress has been made against the SMPs?
Councils in Focus website

The LGA has proposed and provided to ESCOSA an alternative proposal which aligns with the intent of the legislation. A copy of the alternative proposal is provided as Appendix 1.

The LGA alternative proposal is based on the information that is required to be included in the LTFP by regulation. *The Local Government (Financial Management Regulations) 2011* require:

5—Long term financial plans

(1) A long-term financial plan developed and adopted for the purposes of section 122(1a)(a) of the Act must include—

- (b) a summary of proposed operating and capital investment activities presented in a manner consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances;* and
- (c) estimates and target ranges adopted by the council for each year of the long-term financial plan with respect to an operating surplus ratio, a net financial liabilities ratio and an asset renewal funding ratio presented in a manner consistent with the note in the Model Financial Statements entitled *Financial Indicators*.

The regulations make reference to two specific Notes within the Model Financial Statements (Note 16 – Uniform Presentation of Finances and Note 15 – Financial Indicators). The LGA alternative proposal focusses on the high-level data that councils are required to provide in their LTFP and whether a council has been operating within the identified Financial Indicator target ranges over time (and if not, what the council's plan is to bring them back within the target ranges over time).

The LGA alternative proposal recommended a timeframe which reflects the current review cycles and proposes looking back and forward two review cycles (i.e. looking back and forward for eight years). Feedback from member councils has suggested that a historical review back four to five years may be more appropriate.

The LGA will continue to work with ESCOSA to progress a shared understanding of what a constructive SMP Advice Scheme might look like.

8. Summary

The LGA and the local government sector support a Strategic Management Plan (SMP) Advice Scheme which aligns with that contemplated by the changes to section 122 and is commensurate to the ‘problem’ it seeks to address:

- high level advice to councils which highlights where material amendments made (or proposed to be made) may affect a council’s long-term financial sustainability (with reference to the already identified and industry-recognised financial indicator target ranges) and/or may affect a council’s ability to maintain and implement their LTFP and IAMP(s);
- high level advice to councils on the appropriateness of the council's proposed approach to funding services and infrastructure as outlined in the funding plan within the LTFP and the IAMP(s) whilst having regard to the intended sources of total revenue and whether council has considered the appropriateness of the financial contributions proposed to be made by ratepayers.

The LGA and the local government sector do not support a SMP Advice Scheme which:

- expands the scope of the Scheme;
- seeks to limit the discretion bestowed upon councils under the Local Government Act;
- replicates work performed by other agencies (such as reporting data to the Local Government Grants Commission) and/or already required by legislation (eg every council must already audit its accounts); and
- will place upwards pressure on rates.

The LGA believe that ESCOSA’s role is articulated as a high-level review of a council’s LTFP and IAMP (in particular, any changes to these documents) and on the revenue decisions that councils make within the context of their 10-year financial plan.

Appendix 1

LGA Alternative Strategic Management Plan Advice Scheme

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Lorem Ipsum Council

	Historical								Relevant Year	Long-term Financial Plan Projections								Longer Term Trends			
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	to 17-18	to 21-22	to 25-26	to 29-30
LTFP (inc. Funding Plan)																					
Uniform Presentation of Finances	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Adopted	Expected	Expected	Expected	Expected	Expected	Expected	Expected	Expected	4 year Avg	4 year Avg	4 year Avg	4 year Avg
Rates	12,808	13,743	14,738	15,525	16,278	16,838	17,262	17,963	18,595	19,251	19,944	20,663	21,409	22,185	22,990	23,826	24,695	14,204	17,085	19,613	22,603
Statutory charges	361	496	540	481	444	402	402	399	405	411	417	423	430	436	443	449	456	469	412	414	439
User charges	1,995	2,088	1,453	1,057	1,205	1,274	843	1,290	1,309	1,329	1,349	1,369	1,390	1,410	1,432	1,453	1,475	1,648	1,153	1,339	1,421
Grants, subsidies and contributions	7,259	4,071	8,557	6,267	6,989	6,598	6,864	4,167	5,855	5,745	5,825	5,863	5,988	6,367	6,452	6,480	6,561	6,538	6,155	5,822	6,322
Investment income	23	12	14	19	9	2	1	1	1	1	1	1	1	1	1	1	1	17	3	1	1
Reimbursements	792	622	799	640	420	436	191	215	219	222	225	229	232	236	239	243	246	713	316	224	237
Other income	461	531	672	641	392	734	152	95	97	98	100	101	103	104	106	107	109	576	343	99	105
Net gain - equity accounted Council businesses	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Income ($'000)	23,700	21,563	26,773	24,630	25,737	26,282	25,716	24,130	26,480	27,057	27,860	28,649	29,552	30,739	31,662	32,559	33,542	24,166	25,466	27,511	31,128
Expenses ($'000)	24,193	24,888	28,362	27,668	27,458	28,638	26,459	28,552	28,648	29,105	29,521	29,982	30,402	30,823	31,225	31,618	32,015	26,278	27,777	29,314	31,017
Operating Surplus/(Deficit)	(494)	(3,324)	(1,590)	(3,038)	(1,722)	(2,356)	(744)	(4,423)	(2,168)	(2,048)	(1,662)	(1,333)	(850)	(84)	437	942	1,527	(2,111)	(2,311)	(1,803)	111
Net Outlays on Existing Assets	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Adopted	Expected	Expected	Expected	Expected	Expected	Expected	Expected	Expected	4 year Avg	4 year Avg	4 year Avg	4 year Avg
Capital Expenditure on renewal/replacement of Existing	(3,131)	(1,445)	(3,901)	(4,270)	(2,863)	(2,882)	(3,326)	(5,714)	(5,937)	(5,823)	(5,076)	(5,888)	(6,180)	(6,980)	(5,717)	(6,066)	(6,848)	(3,187)	(3,696)	(5,681)	(6,236)
Add back Depreciation, Amortisation and Impairment	6,179	6,402	7,157	7,230	7,624	7,641	7,853	7,781	7,898	8,016	8,136	8,258	8,382	8,508	8,636	8,765	8,897	6,742	7,725	8,077	8,573
Proceeds from Sale of Replaced Assets	186	228,00	635	245	42	193	285	289	242	251	256	462	460	508	210	199	203	355	202	303	344
Net Outlays on New & Upgraded Assets																					
Capital Expenditure on New and Upgraded Assets	(4,076)	(6,871)	(4,151)	(5,496)	(5,876)	(4,903)	(4,193)	(5,029)	(1,636)	(227)	(1,417)	(231)	(1,458)	(236)	(238)	(241)	(243)	(5,148)	(5,000)	(878)	(543)
Amounts received specifically for New and Upgraded Assets	3,306	999	1,904	1,206	1,434	3,627	3,153	2,297	1,020	0	784	0	808	0	0	0	0	1,854	2,628	451	202
Proceeds from Sale of Surplus Assets	0	0	2,232	488	67	42	125	0	0	0	0	0	0	0	0	0	0	680	59	0	0
Net Lending / (Borrowing)	1,970	(4,239)	2,286	(3,634)	(1,294)	1,361	3,152	(4,798)	(581)	170	1,022	1,268	1,163	1,716	3,327	3,600	3,535	(816)	(395)	470	2,451
Financial Indicators	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Adopted	Expected	Expected	Expected	Expected	Expected	Expected	Expected	Expected	4 year Avg	4 year Avg	4 year Avg	4 year Avg
Operating Surplus Ratio	-2.0%	-13.4%	-5.6%	-11.0%	-6.3%	-8.2%	-2.8%	-15.5%	-7.6%	-7.0%	-5.6%	-4.4%	-2.8%	-0.3%	1.4%	3.0%	4.8%	-8.0%	-8.2%	-6.2%	0.3%
Adjusted OSR																					
Net Financial Liabilities Ratio	39%	61%	40%	59%	61%	60%	48%	95%	88%	86%	80%	73%	67%	59%	47%	34%	23%	50%	66%	82%	52%
Adjusted NFLR																					
Asset Renewal Funding Ratio	48%	19%	46%	68%	82%	103%	120%	111%	117%	118%	100%	103%	98%	97%	105%	111%	118%	45%	104%	109%	103%
Assumptions used	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Adopted	Expected	Expected	Expected	Expected	Expected	Expected	Expected	Expected	4 year Avg	4 year Avg	4 year Avg	4 year Avg
CPI					1.5%	1.8%	1.5%	3.2%	4.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%				
LGPI					2.6%	1.4%	0.4%	0.4%	4.5%	2.9%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%	2.8%				
Wages (Enterprise Agreements)					1.5%	1.8%	1.5%	3.2%	4.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%				
Wage Price Index					2.5%	2.5%	1.4%	2.2%	2.2%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%				
Growth					0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%				
Interest Rates																					
Financing Costs																					
Other assumption																					
Infrastructure and Asset Management Plan(s)																					
I&AMP(s) ($'000)	Adopted	Adopted	Adopted	Adopted	Adopted	Adopted	Adopted	Adopted	Adopted	Expected	Expected	Expected	Expected	Expected	Expected	Expected	Expected	4 year Avg	4 year Avg	4 year Avg	4 year Avg
Capital (Renewal)																					
Capital (New or Upgrade)																					
Maintenance (Possibly Immaterial)																					
Operating (Possibly Immaterial)																					

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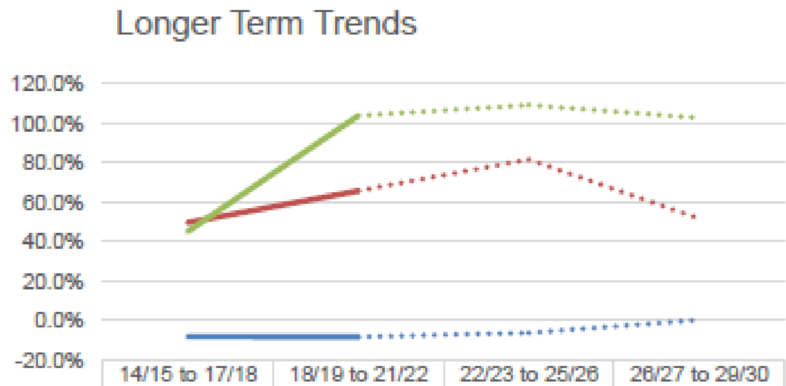
Executive Summary



	14/15 to 17/18	18/19 to 21/22	22/23 to 25/26	26/27 to 29/30
Avg. Operating Surplus Ratio	-8.0%	-8.2%	-6.2%	0.3%
Avg. Net Financial Liabilities Ratio	50%	66%	82%	52%
Avg. Asset Renewal Funding Ratio	45%	104%	109%	103%

Operating Surplus Ratio (not adjusted for FAQs)
Generally accepted target range of between 0% and 10%.

Longer Term Trend:
Historically outside ideal target range however predicted to improve and be within target range over the longer term.

Net Financial Liabilities Ratio (not adjusted for FAQs)
Generally accepted target range of between 0% and 100%.

Longer Term Trend:
Historically within ideal target range and predicted to remain within ideal target range over the longer term.

Asset Renewal Funding Ratio
Generally accepted target range of between 90% and 110%.

Longer Term Trend:
Historically was outside ideal target range however has improved and predicted to be within ideal target range over the longer term.

The Commission acknowledges that council has identified where they are (or historically have been) operating outside of ideal target ranges and are proposing to take appropriate actions to bring the key financial indicators back into the ideal target ranges.

The Commission will monitor progress against the plan in the next relevant year submission.

LTFP Assumptions Used:
Council has used a number of assumptions in the development of their LTFP including CPI, LGPI, Wage Price Index and Growth. It is noted that council's Enterprise Bargaining Agreements are linked to CPI.

Council have stated that their forward LTFP estimates are based on an annual rate increase that has reference to CPI, a sustainability factor (to bring council back into surplus), plus expected Growth (new developments, etc).

The Commission considers that these are an appropriate range of assumptions for council to use in the development of their LTFP.

Lorem Ipsum Council has a Long Term Financial Plan and an Asset Management plan, both of which appear to be up to date, well developed and interact with each other.

Long Term Financial Plan
Advice about improving the LTFP.

Infrastructure and Asset Management Plan(s)
Advice about improving the IAMP(s).

For example:

The Commission notes that Lorem Ipsum has identified IAMPs for the individual asset classes of Roads, Buildings and CWMS. Council should consider the creation of a consolidated and/or summary IAMP which encapsulates the grand totals across all individual asset classes. This would help council to see the projected distribution between capital new and capital renewal and assess how this aligns with their asset management principles, policies and/or strategies.

Material amendments made or proposed to be made:
Comment on any issues or factors which may change the strategic direction currently identified by council, impact on councils ability to deliver on the plans as identified and/or materially impact on the council's financial sustainability.

For example:

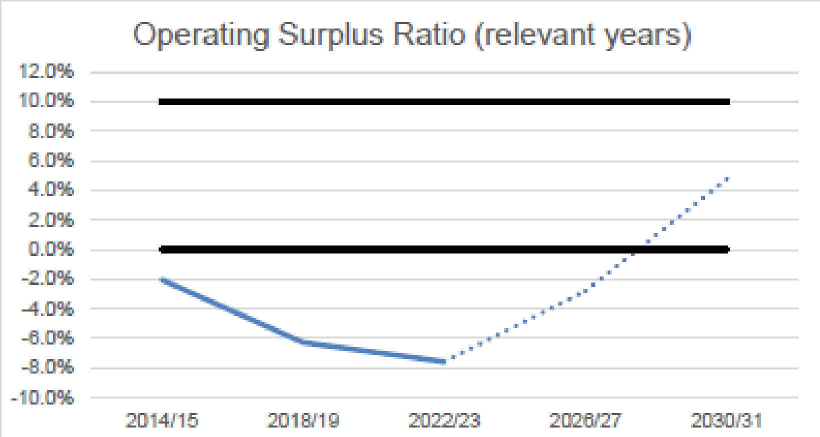
The Commission notes that Lorem Ipsum Council has identified long term plans to build a State of the Art Football Stadium to meet the objectives in their Strategic Community Plan but that this is subject to final costings/designs (yet to be determined) and would only go ahead should council be successful in attaining matched funding.

At this stage, this has not been modelled within the relevant IAMP and/or LTFP. Should future funding opportunities arise, council should model the impact of the proposal in the LTFP and IAMP and be clear in any public consultation process about the projected impact and any resultant trade-off decisions that may need to be considered.

Revenue and Expenditure

Operating Surplus Ratio

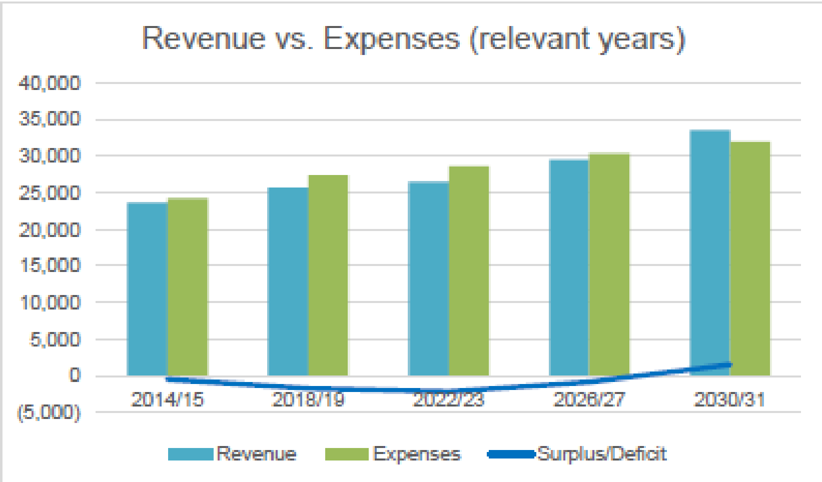
(By what percentage does the operating income vary from operating expenses?)



Observations:
Generally accepted target range of between 0% and 10%.

This indicator is by far the most important financial indicator for Councils. Council's long-term financial sustainability is dependant upon ensuring that, on average over time, its expenses are less than associated income. If a council is not generating an operating surplus in most periods, then it is unlikely to be operating sustainably as the cost of services provided to the community are exceeding the income generated.

Lorem Ipsum Council has not generated an operating surplus in the last four years and the ratio is currently outside the target range however the Commission notes that there is a plan to bring it within the target range by 28-29. The Commission will monitor progress against the plan in the next relevant year submission.

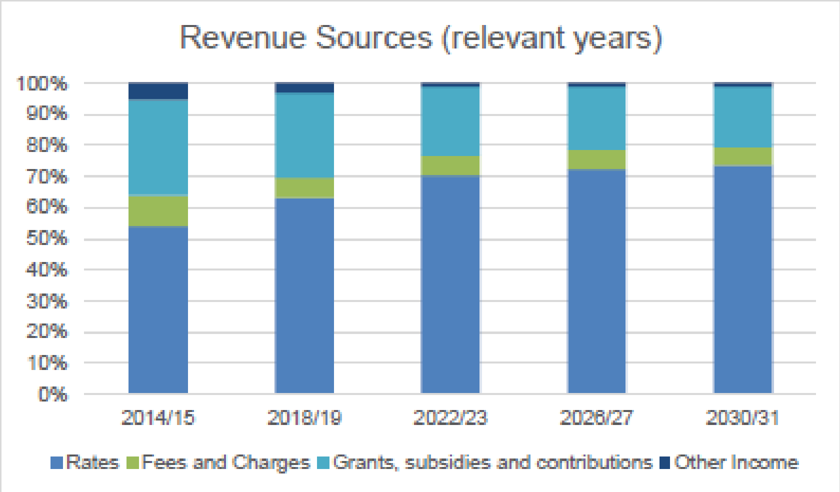


Observations:
Expenses are currently anticipated to exceed Income until around 27-28 when a modest deficit has been projected.

Council has recognised that this is not sustainable in the long term and has included a 2 per cent 'Sustainabiliy' factor in the LTFP revenue projections to bring the council back into a surplus position by 28-29.This is a measured and appropriate response.

It is expected that council will continue to investigate ways in which it could further reduce expenses and this may result in the surplus point occuring earlier than predicted.

Revenue and Expenditure



Observations:
Increasing reliance on revenue from rates over the forward 'relevant years'. In 14-15, Rates accounted for 54% and Grants, subsidies and contributions (primarily from other levels of Government) for 31% of total revenue, this is anticipated to shift to 74% and 20% respectively by 30-31.

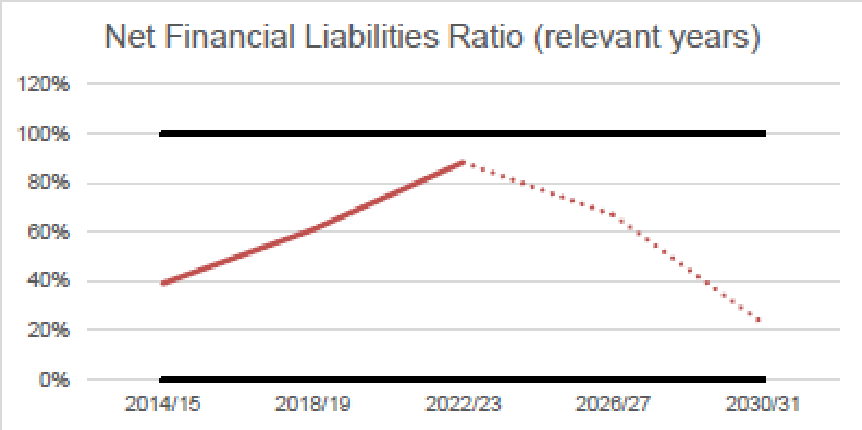
Revenue from Fees and Charges has reduced slightly but is anticipated to be relatively steady over the forward 'relevant years'. Other Income is relatively immaterial (at 5 per cent or below).

The Commission would be keen to understand from the council whether any options to reduce the increasing reliance on rate revenue have been considered and how it assesses and accounts for its ratepayers' ability to finance its plans.

Indebtedness

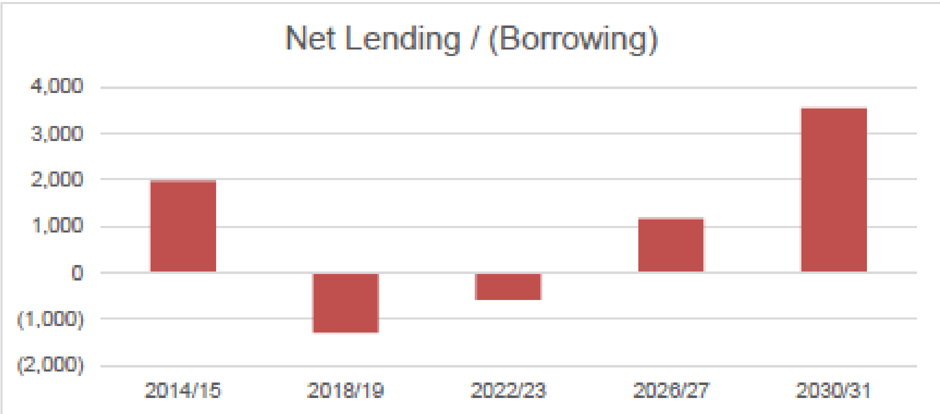
Net Financial Liabilities Ratio

(How significant is the net amount owed to others, compared with operating income?)



Net Financial Liabilities Ratio
Generally accepted target range of between 0% and 100%.

Observations:
Ratio has been decreasing over the last five years which may suggest that the Council's capacity to meet its financial obligations from operating income is marginally strengthening (considering corresponding reduction in deficit).
Ratio is predicted to remain within target range in next two relevant year review cycles.

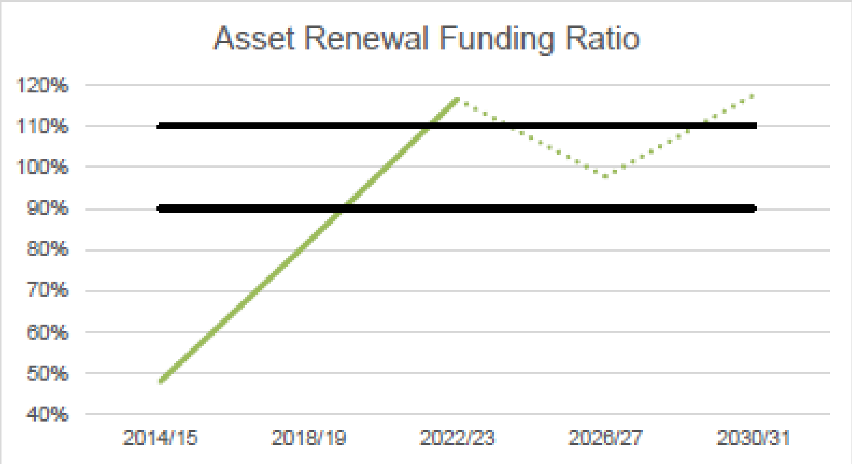


Observations:
Net lending / (borrowing) is a 'flow' measure that takes account of both operating and capital activities for the financial year. A net borrowing result in a particular year increases a council's level of net financial liabilities in that year whereas a net lending result reduces the level of net financial liabilities.
Achieveing a zero result on the net lending / (borrowing) measure in any one year essentially means that the Council has met all of its expenditure (both operating and capital) from the current year's income (with income including amounts received specifically for new / upgraded assets).
Council has on average for the last two 'relevant year' cycles achieved a net borrowing result, however this is anticipated to improve over the two future 'relevant year' cycles with a net lending result being achieved on average.
The Commission will monitor progress against the plan in the next relevant year submission.

Infrastructure and Asset Management

Asset Renewal Funding Ratio

(Are assets being renewed and replaced in an optimal way?)

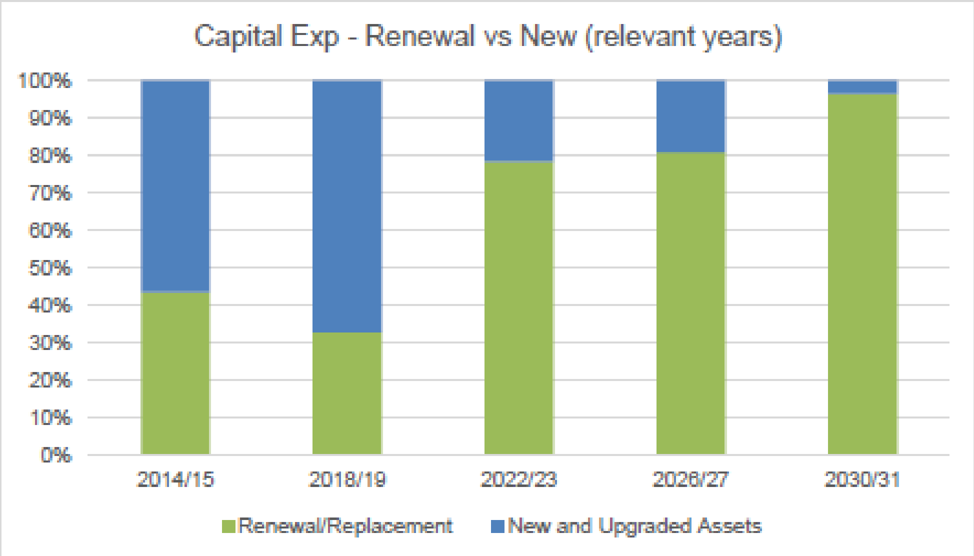


Asset Renewal Funding Ratio
Generally accepted target range of between 90% and 110%.

Observations:
Ratio has historically been outside the ideal target range (being below the ideal target range in each year between 2014/15 and 2018/19). Any material underspending on renewal and replacement over the medium term is likely to adversely impact on the cost-effective achievement of preferred, affordable service levels and could potentially progressively undermine a council"s financial sustainability.

The ratio has been slightly above the ideal target range in more recent years (suggesting council may be trying to 'catch up' on asset renewals) before settling into a pattern of being within the ideal target range, on average, over the future years of the LTFP.

The Commission will monitor performance against the plan in future submissions.



Capital Renewal vs. Capital New

Observations:
Generally, it is to be expected that capital expenditure on renewal of assets will be greater, on average, than capital expenditure on new or upgraded assets (except in the case of councils experiencing high levels of growth).

It is noted that Lorem Ipsum's level of capital expenditure on new/upgraded assets has historically been greater than renewal. This may be explainable, i.e. where existing assets have essentially been renewed to a higher service level (to bring up to current community expectations) and have therefore been captured within 'upgraded' assets.

The Commission would be interested to understand whether this trend has predominately been because of the creation of 'new' assets or the upgrading of existing assets. If they are 'new' assets, the Commission would be interested to understand if they were planned/identified within the council's strategic management plans.

It is also noted that this trend reverses in future years of the LTFP.

Appendix 2

Shocks to local government – external $ impacts

Prepared for the South Australian Productivity Commission Inquiry in 2019 – demonstrates the impact to local government finances caused by decisions of other levels of government.

Shocks to local government - external $ impacts

Local Government Association of South Australia

all councils

2014

Lost SA Supplementary Road Funding $ 20M

FAGs indexation freeze $ 12M

Solid Waste Levy $ 16.3M

TOTAL $ 55.5M
Representing 2.9% of total operating revenue

Federal cut OPAL $ 7.2M

2015

Lost SA Supplementary Road Funding $ 20M

FAGs indexation freeze $ 12M

Solid Waste Levy $ 18.3M

TOTAL $ 51.3M
Representing 2.4% of total operating revenue

Community Housing Provider
75% mandatory rebate
$ 1M

2016

FAGs indexation freeze $ 12M

Solid Waste Levy $ 23.8M

TOTAL $ 37.8M
Representing 1.8% of total operating revenue

Community Housing Provider
75% mandatory rebate
$ 1M

Rubble Royalties $ 1M

2017

Solid Waste Levy $ 29.6M

TOTAL $ 37.1M
Representing 1.6% of total operating revenue

Community Housing Provider
75% mandatory rebate
$ 4.4M

Rubble Royalties $ 1M

State cut OPAL $ 2.1M p/y

2018

China Sword $ 8.8M

Solid Waste Levy $ 34M

TOTAL $ 48.2M
Representing 2.1% of total operating revenue

Community Housing Provider
75% mandatory rebate
$ 4.4M

Rubble Royalties $ 1M

2019

China Sword $ 8.8M

Solid Waste Levy $ 42.6M

TOTAL $ 56.8M
Representing 2.4% of total operating revenue*

Community Housing Provider
75% mandatory rebate
$ 4.4M

Rubble Royalties $ 1M

E-planning contribution $ 1.1M

some councils

This is intended to be a representation of some key policy decisions from other spheres of government that have impacted on councils costs and efficiency. It is not intended to be an exhaustive list.
** Based on Local Government Grants Commission data 2019 figure calculated using 2017/18 total of revenue which is latest available.*

Local Government Association of South Australia

The voice of local government.

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