



Naracoorte Lucindale Council
Better by Nature

Essential Services Commission of SA Local Government Rates Oversight Scheme Submission

1 Council Comment & Observations

Council understands the rates oversight scheme in a manner consistent with the Local Government Act.

In principle, Council supports a rates oversight scheme rather than a rate-capping legislative mechanism, but does have concerns that the scope, level of detail and costs, proposed in ESCOSA's Draft Framework & Approach (DFA) represents a significant departure from Parliament's expressed intentions.

Whilst the scheme is referred to generally as the 'Rates Oversight Scheme', it is important to note that the scheme was inserted into section 122 which deals with strategic management plans and is therefore essentially a review of s122 related documents. The amendments to section 122 were designed as an oversight scheme, not an audit or an otherwise comprehensive review of a councils' financial, budgetary, risk and control settings. Council is not convinced that section 122 is broad enough to permit a review of the scope contemplated in the DFA.

The essence of the scheme is that the Essential Services Commission (Commission) will provide to each of the State's 68 local councils (on a four-yearly rotational basis) advice on the:

- appropriateness, and effective maintenance and implementation, of the council's long-term financial plan (LTFP), and infrastructure and asset management plan (IAMP), including any material amendments proposed or made in respect of those plans, and
- appropriateness of proposed financial contributions by the council's ratepayers under those plans.

Council considers that the 'essence of the scheme' is contained within section 122, which: provides that the designated authority must provide advice to the council on the appropriateness of the relevant matters in the context of the council's long-term financial plan and infrastructure and asset management plan (s122(1f)(a)); and defines the 'relevant matters' as material amendments made or proposed to be made to the council's long-term financial plan and infrastructure and asset management plan and the council's reasons for those amendments and revenue sources outlined in the funding plan (s122(1e)).

Council acknowledges that the Act provides that the designated authority must have regard to the following objectives:

- the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans;

- 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

Our view is that section 122(1g) is not intended to expand the scope of ESCOSA's proposed review, and that in fact, the opposite is true. Through its choice of words, section 122(1g) is centring ESCOSA's review on specific objects in the Local Government Act. As these and no other objectives are provided in section 122, ESCOSA should not pursue objectives not specifically provided for. This argument is strengthened by virtue of the nature of the documents contemplated within 'the relevant matters'.

The LTFP (including the funding plan) is a high level document which outlines the intended sources of total revenue (such as revenue from rates, grants and other fees and charges) and therefore we consider that the focus should be on whether the proposed aggregate revenue sources are appropriate (having regard to the objective under s122(1g)(a)(ii)). The Council therefore submits that the scope of review contemplated by section 122 is much more limited than as proposed in the DFA.

The DFA also suggests that ESCOSA has a discretion to expand the scope of its review by requesting additional information or by deciding to provide advice on other matters it considers appropriate. Council does not agree that ESCOSA has a unilateral power to expand this scope. Rather, the discretion provided by these sections is merely to enable the collection of such additional information ESCOSA requires to provide advice on the LTMP and the IAMP for the objectives set out in section 122(1g).

To the extent that ESCOSA does have a discretion about:

- which documents it requires councils to provide; and
- the range of matters it analyses, as part of its review, the Council suggests that ESCOSA should err on the side of a limited, high-level review, as contemplated by Parliament. It should seek information that is necessary for it to perform its statutory function, but no more than that.

Council accepts that we may benefit from high-level advice on LTFP's and IAMP's, but we are not convinced that the proposed DFA will deliver additional benefits to the sector, commensurate with the significant additional cost.

Instead, Council recommends that ESCOSA design a rates oversight scheme that:

- is limited in scope to reviewing the intended revenue sources outlined in the funding plan and material amendments made or proposed to be made to the council's LTFP and IAMP (and such other documents required to properly understand these two documents), and the council's reasons for those amendments;
- is further limited in scope to the objectives set out in section 122(1g)(a); and
- provides each council with high-level advice about the LTFP (including funding plan) and IAMP.

As the rate oversight scheme is new, the LGA considers it prudent to use the first four years to set a baseline and then using a risk-based approach, scale up the scope of the review for a particular council if a need is identified. This aligns with the wording of s122(1f)(b) which provides that the designated authority, may, if it considers it appropriate having

regard to the circumstances of a particular council, provide advice in relation to any other aspect of the council's long-term financial plan and infrastructure and asset management plan. It is also consistent with ESCOSA's "better regulation" approach, which it describes as being risk based, proportionate to the problem that is being addressed and subject to continuous improvement and monitoring

Finally, ESCOSA provides in Principle 2 in the DFA: "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 (they should not vary due to political cycles, or short-term transient operational or financial concerns)."

We provide that councils are democratically elected to represent the hopes, aspirations, and expectations of our community. Our community (as expressed through their votes) is entitled to change their priorities and elect new representatives. Ultimately, decisions about revenue and expenditure remain the responsibility of elected members of council and long-term plans will change as a result of political cycles.

We also note that the local government sector is often constrained by political decisions of state and federal government which may affect service delivery, infrastructure development and other costs to council. For example, there may be a sudden offer of grant funding for an asset on a council's long-term capital program which, in order to secure the funds, the council must match dollar for dollar. These matters must be responded to in a timely way that considers the best interests of each council's community and may result in unanticipated changes to a council's LTFP and/or IAMP.

ESCOSA advice should therefore provide a framework within which elected members can continue to make informed decisions, understanding the implications of those decisions.

2 Summary

The Rates Oversight Scheme was an alternative legislative provision provided for within the LG Reform approach, instead of a rate capping scheme/legislation.

Our understanding of the essence of the LG Rates Oversight Scheme is to provide an overview of Councils strategic management approach, namely LTFP and AMP's, and the broad assessment of sustainability of Councils, plus effect of rates on communities.

This initially appeared a reasonably sound and fair approach, but now with the draft framework provided – this approach appears to be much more prescriptive, and a deeper dive into Councils operations. This appears to be more of an ESCOSA policy approach, rather than what is contained or intended within legislation.

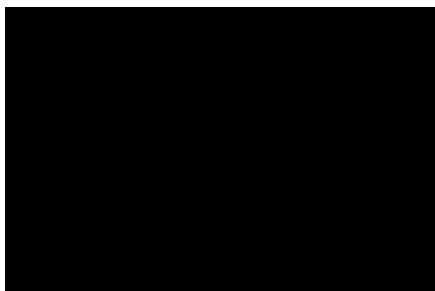
We suggest that the draft framework and approach provides for significant overreach by ESCOSA. Our experience with ESCOSA through our dealings with Lucindale CWMS licensing (ESCOSA provides Council with a licence to operate the Lucindale CWMS) shows ESCOSA to be overly bureaucratic, cumbersome in its approach, and fails to value add to our operations and maintenance.

We have similar concerns with the Rates Oversight Scheme, in that it will cause significant work for Councils in provision of information. The initial approach seeking the provision of historical information from 2007/08 FY onwards to establish historical measurements,

rather than looking forward from legislation commencement (30/4/22) should not be pursued.

With a main objective of the Scheme being to ensure ratepayers are not overly burdened through rate increases, rather than Council seeking savings through efficiencies, productivity, etc (which is a good objective) – the initial estimates of the costs of ESCOSA's scheme (establishment & operations) is \$50,000 per Council.

This equates to a total of **\$3.4M** that will be paid by Councils (ratepayers) to ESCOSA over each 4-year cycle, and this approach appears totally counter-intuitive. In addition to added red-tape, bureaucracy, and that Councils are not required, nor can they be forced, to consider any of ESCOSA's findings - **\$3.4M** in added costs across local government for a Scheme that adds minimal value to our services or functions appears farcical.



25 May 2022