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**23 May 2022**

**Mr S McComish**
**Economic Regulatory Advisor**
**Essential Services Commission**
**GPO Box 2605**
**ADELAIDE SA 5001**

E: rates@escosa.sa.gov.au

**Dear Sean**

**Local Government Rates Oversight Scheme – Draft Framework and Approach**

Whyalla City Council (Council) would like to thank the Essential Services Commission of South Australia (ESCOSA), for the opportunity to provide input into the operation of the proposed Rates Oversight Scheme.

Council has considered the initial advice put forward by the Local Government Association (LGA), as well as holding discussions between the Administration, Council and the Audit Committee. The response provided is a combination of all these considerations and was endorsed by Council at their meeting held on Monday 16 May 2022. A copy of the resolution is attached.

Council supports the key areas of feedback put forward by the LGA, being:

- The scope of information requested by ESCOSA should be directly relevant to and used for the purpose of provision of advice regarding councils Long-Term Financial Plan, Infrastructure and Asset Management Plans and total revenue sources, in accordance with the requirements of Section 122 of the Local Government Act 1999.
- The first four years of operation of the scheme should be used to set a baseline for each Council and then, using a risk-based approach, the scope of the review could be scaled up for a particular council if a need is identified. This is consistent with ESCOSA's espoused "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.
- The period for which historical data is provided should reflect the timeframe anticipated within the proposed scheme, i.e. four years, and a request for historical information for a longer period is not supported.
- The costs associated with the proposed scheme are far in excess of what was anticipated, and the scope of the proposed scheme should be reduced to address the unreasonable costs.

- The removal of the discretion provided in the Local Government Act 1999, for Council to determine the reasonable assumptions to be used in the development of the Long Term Financial Plan, is strongly rejected. These assumptions may include consideration of the Local Government Price Index (which accounts for the costs of items usually purchased by councils as opposed to CPI which accounts for the costs of items usually purchased by households), endorsed Enterprise Bargaining Agreements, the ABS wage price index and other actual cost factors which collectively provide a more accurate representation of inflation pressures to be considered by Council.
- The use of the term ‘CPI constrained’ will lead to unreasonable criticism of Councils that justifiably increase rates greater than CPI and will have a practical effect of capping Council rates to the CPI rate. ‘Rate capping’ was not supported by Parliament. The assertion that Councils should be CPI constrained is rejected.

Council provides the following additional feedback:

- Looking at the proposal, it appears to be an expensive data analytics exercise, and there is the risk that the advice provided will lack the insights to substantiate the price. Council receives their annual external audit for a cost that is less than one third of the proposed cost for this process, which appears to indicate that the price is far too high.
- While not necessarily a concern to Whyalla specifically, being a medium sized Council, it does seem to be counterproductive that the scheme will be charged to all Council’s evenly, rather than on a graduated or per capita basis. This will have substantial negative financial impacts on some small regional Council’s, for a scheme that purports to exist to increase financial performance.
- One of the items outlined in the approach is that direct analysis will not be made between Council’s. While it is understood that no-one wants this exercise to be become a simple scorecard of performance amongst Councils, surely there is some merit from ESCOSA undertaking some comparisons. The approach talks about looking at efficiency, but how is this possible without comparison? If this is only undertaken by looking at a Council over time, in effect the modelling would reward an organisation that had more “fat” in the budget to begin with. Is this a desirable outcome?
- The scheme mentions the use of the SEIFA index as an input to the analysis. Doesn’t this infer that at some level a comparison is being made between Councils?
- Any scheme of this nature has to take into account that every Council is at a very different position in its life cycle, including the movement towards better financial sustainability that has been occurring across the industry over the past 15 years or more. Looking at the annual increase in rates, supports the ubiquitous fallacy that the existing position is where Council should be at this point in time. In many cases, Councils are constantly playing catch-up.

- The scheme appears to misunderstand what the Long Term Financial Plan (LTFP) is. It is just what is says, a plan, and is a tool to assist a Council to understand it's capacity and the impacts of decision making. Councils are responsible for overseeing a complex environment and regularly have to make important decisions with significant ongoing impacts, often outside of the annual budget process. This is not a problem, as long as the decision is made with good information. The scheme seems to envision a world where Council's adopt a LTFP and then nothing changes from that point forward.
- The definition of Intergenerational Equity, given with the Framework paper, is solely focused on the economic factors and not any of the other important considerations, e.g. the environment.
- Local Government is much more complicated the other industries that currently fall within the prevue of ESCOSA, not the least of which is that every decision is made within a wholly political context. It remains to be seen how long ESCOSA will take to build up the knowledge to provide insightful advice to the industry. This seems to add weight to the argument about keeping the scheme small to begin with, with ESCOSA using the opportunity to focus on knowledge building.
- Ultimately, any scheme of this nature has to take into account that every Council is at a very different position in its life cycle, including the movement towards better financial sustainability that has been occurring across the industry over the past 15 years or more.
- Of particular concern to Whyalla, is whether the scheme has been designed in a way that can sufficiently deal with the often complex and interdependent relationship between Councils and the local communities they serve in regional areas. Regional Councils often have to act as the default provider of services not traditionally within their orbit, or risk them not being available at all. In addition, the ratio between the asset stock to maintain and the number of ratepayers is often much higher in regional areas, often exacerbated by stagnant or even declining population numbers. This is a particularly acute issue within Whyalla, where the majority of public assets were built within a 15-year boom period and are now all reaching end of life at the same time. These factors combined mean that regional Councils have to make very difficult decisions around balancing of the overall service load, or the rate increases required to continue operating sustainably. Like much of what occurs in South Australia, there is a risk that the scheme will be highly focused on metro Councils and their particular set of circumstances. If implemented well, a scheme of this type had the potential to assist regional Councils in their decision-making process and consultation with the community on difficult issues. Hopefully that will be the case.
- It is hoped that Council will be given the opportunity to view a draft version of any report and provide feedback for consideration, before it is published in final form.

Council is supportive of the overall intention of the scheme if it is well designed, but it is important that the cost/benefit to ratepayers is well thought out. It is hard to judge the scheme until the outputs can be reviewed.

Council is committed to a productive relationship with ESCOSA into the future and hopes that the outcomes of the scheme will assist with the aim to secure the future prosperity of the city of Whyalla.

If you wish to discuss any of the feedback provided, please don't hesitate to contact me.

**Yours faithfully**

[redacted]

Attach

**<u>Copy of Council resolution – 16 May 2022</u>**

*13.2.7 Feedback on ESCOSA Proposed Framework and Approach*

*Moved [redacted], seconded [redacted]*

***C4329-2022***

*Council:*

1. *supports a submission directly to the Essential Services Commission of SA (ESCOSA), supporting the Local Government Association (LGA) advocacy position in relation to the scheme established in Section 122 of the Local Government Act 1999, under which ESCOSA will provide advice to Councils in relation to strategic management plans, and notes the following concerns in response to the ESCOSA proposed framework and approach:*

   - *The scope of information requested by ESCOSA should be directly relevant to and used for the purpose of provision of advice regarding Councils Long Term Financial Plan, Infrastructure and Asset Management Plans and total revenue sources, in accordance with the requirements of Section 122 of the Local Government Act 1999.*
   - *The first four years of operation of the scheme should be used to set a baseline for each Council and then, using a risk-based approach, the scope of the review could be scaled up for a particular Council if a need is identified. This is consistent with ESCOSA's espoused "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.*
   - *The period for which historical data is provided, should reflect the timeframe anticipated within the proposed scheme, i.e. four years, and a request for historical information for a longer period is not supported.*
   - *The costs associated with the proposed scheme are far in excess of what was anticipated, and the scope of the proposed scheme should be reduced to address the unreasonable costs.*
   - *The removal of the discretion provided within the Local Government Act 1999, for Council to determine the reasonable assumptions to be used in the development of the Long Term Financial Plan, is strongly rejected. These assumptions may include consideration of the Local Government Price Index (which accounts for the costs of items usually purchased by Councils as opposed to CPI which accounts for the costs of items usually purchased by households), endorsed Enterprise Bargaining Agreements, the ABS wage price index and other actual cost factors which collectively provide a more accurate representation of inflation pressures to be considered by Council.*

- *The use of the term 'CPI constrained' will lead to unreasonable criticism of Councils that justifiably increase rates greater than CPI and will have a practical effect of capping council rates to the CPI rate. 'Rate capping' was not supported by Parliament. The assertion that Councils should be CPI constrained is rejected; and*

2. *also supports the addition of feedback to the submission, highlighting further specific concerns raised by Council:*

   - *Looking at the proposal, it appears to be an expensive data analytics exercise, and there is the risk that the advice provided will lack the insights and public value outcome to substantiate the$52,000.00 cost to each council every four years. Council receives their annual external audit for a cost that is less than one third of the proposed cost for this process, which appears to indicate that the price is far too high and as a result, delivers questionable public value.*
   - *While not necessarily a concern to Whyalla specifically, being a medium sized council, it does seem to be counterproductive that the scheme will be charged to all councils evenly, rather than on a graduated or per capita basis. This will have substantial negative financial impacts on some small regional councils, for a scheme that purports to exist to increase financial performance.*
   - *One of the items outlined in the approach is that direct analysis will not be made between councils. While it is understood that no-one wants this exercise to be become a simple scorecard of performance amongst councils, surely there is some merit from ESCOSA undertaking some comparisons. The approach talks about looking at efficiency, but how is this possible without comparison? If this is only undertaken by looking at a council over time, in effect the modelling would reward an organisation that had more "fat" in the budget to begin with. Is this a desirable outcome?*
   - *The scheme mentions the use of the SEIFA index as an input to the analysis. Doesn't this infer that at some level a comparison is being made between councils?*
   - *Any scheme of this nature has to take into account that every council is at a very different position in its life cycle, including the movement towards better financial sustainability that has been occurring across the industry over the past 15 years or more. Looking at the annual increase in rates supports the ubiquitous fallacy that the existing position is where it should be. In many cases councils are constantly playing catch-up.*
   - *The scheme appears to misunderstand what the Long Term Financial Plan (LTFP) is. It is just what is says, a plan, and is a tool to assist a council to understand its capacity and the impacts of decision making. Councils are responsible for overseeing a complex environment and regularly make important decisions with significant ongoing impacts, often outside of the annual budget process. This is not a problem as long as the decision is made with good information. The scheme seems to envision a world where councils adopt a LTFP and then nothing changes from that point forward.*

- *The definition of Intergenerational Equity given with the Framework paper is solely focused on economic factors and not any of the other important considerations, e.g. the environment.*
- *Local Government is much more complicated the other industries that currently fall within the purview of ESCOSA, not the least of which is that every decision is made within a wholly political context. It remains to be seen how long ESCOSA will take to build up the knowledge to provide insightful advice to the industry. This seems to add weight to the argument about keeping the scheme small to begin with, with ESCOSA using the opportunity to focus on knowledge building.*
- *Of particular concern to Whyalla, is whether the scheme has been designed in a way that can sufficiently deal with the often complex and interdependent relationship between councils and the local communities they serve in regional areas. Regional councils often have to act as the default provider of services not traditionally within their orbit, or risk them not being available at all. In addition, the ratio between the asset stock to maintain and the number of ratepayers is often much higher in regional areas, often exacerbated by stagnant or even declining population numbers. This is a particularly acute issue within Whyalla, where the majority of public assets were built within a 15-year boom period and are now all reaching end of life at the same time. These factors combined mean that regional councils have to make very difficult decisions around balancing of the overall service load, or the rate increases required to continue operating sustainably. Like much of what occurs in South Australia, there is a risk that the scheme will be highly focused on Adelaide metropolitan councils and their particular set of circumstances. If implemented well, a scheme of this type has the potential to assist regional councils in their decision-making process and consultation with the community on difficult issues. Hopefully that will be the case.*

***Carried***