

# TRANSCRIPT

## STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

### Inquiry into rate capping policy

Melbourne — 9 March 2016

#### Members

Mr David Davis — Chair

Ms Harriet Shing — Deputy Chair

Ms Melina Bath

Mr Richard Dalla-Riva

Ms Samantha Dunn

Mr Shaun Leane

Mr Adem Somyurek

Mr Daniel Young

#### Participating Members

Mr Jeff Bourman

Ms Colleen Hartland

Mr James Purcell

Mr Simon Ramsay

#### Staff

Secretary: Mr Keir Delaney

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#### Witnesses

Mr Rob Spence (affirmed), Chief Executive Officer, Municipal Association of Victoria;

Dr Andrew Hollows (affirmed), Chief Executive Officer, and

Mr Justin Kann (affirmed), Communications Coordinator, Victorian Local Governance Association; and

Mr David Preiss (affirmed), Chief Executive Officer, and

Ms Celia Haddock (affirmed), Board Member, LGPro.

**The CHAIR** — I declare this public hearing of the Legislative Council Standing Committee on the Environment and Planning open. All telephones if possible should be turned to silent. Today's hearings are in relation to the inquiry into rate capping policy, and I should say that all evidence taken at this hearing is protected by parliamentary privilege, as provided by the Constitution Act 1975, and further subject to the provisions of the Legislative Council standing orders. Therefore information given today is protected by law. However, any comment repeated outside the hearing may not be protected. All evidence is recorded by Hansard — thank you, at this hour of the day — and witnesses will be provided with proof versions of the transcript in the next couple of days.

We are running a little bit late because we had a joint sitting of the chambers for a series of purposes, so I apologise for that. What I will try to do is get people sworn in, and then I will ask from a small opening statement from individuals on behalf of their organisations, and then we will move to some questions and discussion. If I can perhaps ask: who wants to start?

**Ms HADDOCK** — Okay, thank you for the opportunity this evening to present on behalf of Local Government Professionals Victoria. I am sure you have all seen our submission. Local Government Professionals are very concerned about the pressures that rate capping has put on local councils. Obviously there are a number of opportunities for us as well in terms of shared services, but given that the government is currently reviewing the Local Government Act and the state government has the capacity to set fees and charges, we are concerned that our capacity to manage our budgets within some of those constraints will be limited.

We have freezing of financial assistance grants from the commonwealth government. We are in a revaluation year, so residents expecting to get only a 2.5 per cent increase in their rates may be confused and unsure what is happening because of the reval. It is a council election year, as I am sure you know.

LGPro would like more engagement on the scope and purpose of the proposed Essential Services Commission productivity review. We are really unclear on where that is heading and the expectations, and we do continue to challenge the concept of an efficiency target over and above the rate capped environment. We are concerned that there is no commitment beyond the first 12 months, that the sector will not have to bear the costs of administering rate capping, and it would be important to ensure that rigorous periodic review is undertaken on the impact of rate capping on councils — on our financial stability, community wellbeing indicators, community satisfaction and asset maintenance.

Just to also mention, many councils are going into EB negotiations this year, so obviously the rate cap has an impact on the capacity around negotiations and the number of staff that we might continue to employ, as a number of us are considering which services we can really afford to keep and which we cannot. I might leave it there.

**Dr HOLLOWS** — Good evening, everyone. Thank you for the opportunity for us to present on behalf of the VLGA. As you know, I am the CEO, Dr Andrew Hollows, and I introduce Justin Kann, our communications officer.

Over the last 18 months the VLGA has engaged with councillors on the issue of rate capping in a number of ways. Certainly the committee would be aware in 2015 we commissioned some external work on the likely impact of rate capping and proposed what we called the light touch approach — essentially, a sensible approach that supports the integrity of the budgeting and planning processes that councils already have in place but also, equally importantly, supports the democratic mandate of elected councillors. We will come back to that point, because I think that is quite important and an essential theme when we are talking about rate capping — the democratic mandate of another tier of government.

Certainly we have looked at the impact, or the likely impact, of rate capping and have worked in a very proactive way with the minister's office, Local Government Victoria, the Essential Services Commission and our members more broadly to come up with a sensible way forward in terms of a streamlined process looking at rate capping, particularly some greater clarity about the variation process. It would be fair to say there are still a lot of question marks about that, and we will continue to advocate for our members interests and ultimately the interests of local community ratepayers and service users.

From our perspective it is still early days to determine the real impact of rate capping on services, and we feel that is a medium-to-long-term story. But for us the analogy is pretty much like a spring. When you press down on a spring, it might not push back today or tomorrow, but eventually there will be a cost, there will be a trade-off, there will be a consequence of rate capping. We have been here before. We have learnt from other jurisdictions. Let us be mindful that rate capping at 2.5 per cent heading towards probably 2 per cent in the next forward years will have a consequence. Let us be clear about that.

We know from feedback about the current 2.5 per cent that many councils are very concerned about how they are going to juggle, make do and make the trade-offs now but into the future as well. We know what that means. We know the experience before. It is delaying asset renewal, maintenance of infrastructure and ultimately services. I think that time will show what the impact will be into the future. It is 2.5 now; the forward estimates from DTF would suggest it is probably heading southwards in terms of the CPI to be used by the ESC to probably around about 2 per cent. Once you actually look at the consequences of that it has a compounding effect as well, so again year by year, six-month by six-month there is a compounding exponential factor here.

Many of our members have been quite concerned about the time frame this time around, particularly through the variation process. Yes, they have been aware of rate capping. Have they been aware of the rules of the game set by the government and the ESC? Not for a long time, only for a very short time period. They were not notified until just before Christmas — one or two days before Christmas — of what the rate cap figure was going to be. They were expecting under the new legislation that the minister would exercise discretion in terms of the number of rate caps. What did we get? One uniform rate cap for metro councils, rural councils, regional councils, large and small. If nothing else, the disappointment in the sector was that the capacity for flexibility was not exercised.

Many councils are also worried about the short time frame. They were advised about the rate cap before Christmas. Most councils do not meet during the course of January. How the heck do you pull together a good application when you are still trying to learn the rules from the Essential Services Commission about what a variation process looks like, let alone have a proper, full, comprehensive conversation with your communities and, by the way, have the time to debate it in council and, by the way, have something written of good quality ready to go in — what was it? — two weeks, two and a half weeks? It is a problem.

So the meaning for us is that the feedback from councils has been neither interest nor lack of interest to seek a variation both around timing, around process, around clarity of the rules by the Essential Services Commission. I guess let us be fair, in an election year for councils that adds an additional overlay in terms of the process. But rest assured, if you speak to most councils, even large metro councils, somewhere in the next electoral term, in the next four years, most councils will have to seriously contemplate a variation. It will not go away; it is just been put back. Once they have done this, delayed this, cut this and handed that back, then the real issues, the real conversation between councils and the community will have to ensue.

Lastly, I would just like to draw to the attention of the committee there is a flipside to this — there is a flipside story. Basically we say if there is a fair go rates system, then there has to be a fair go around shared funding or cost shifting of services. The two go hand in hand. If you talk to any councillor of any persuasion across any part of this state, the concern remains of cost shifting. What does it look like? What are the numbers? What is its impact on communities? How does that actually figure?

We would strongly urge the committee that looking at rate capping in isolation without the broader financial piece for local government gives you one perspective. Certainly from our perspective as an association and the work that we are now doing, and it has been based on conversations with the minister and Local Government Victoria, it is about time we had a fair dinkum look at cost shifting and put that in the context of a broader discussion about rate capping as well.

Last but not least we commend the committee for its deliberations. In summary, our initial view is that it is early days to get a full sense of what the impact of rate capping will be. We have grave concerns about the process to be run by the Essential Services Commission. A strong spotlight needs to be shone on the ESC process to ensure transparency, consistency in decision-making and the fact that whatever decision they come up with has to be clear, has to be justifiable and has to be defensible back to councils and the communities.

Last but not least, cost shifting is part of the story. People do not like that term. I know the Treasurer does not like that term, but it is the reality. It is a real cost on communities, it is a real cost on councils and it is a real cost

on ratepayers. In a nutshell, our view would be to look at the ESC process, we want some clarity there; and continue to look at the possible impact of rate capping in the short term. Do you realise that into the future councils will have to give serious consideration to seeking a variation sometime in the next term? Surely the issue of cost shifting, the issue of indexation around financial assistance grants and other measures have to be part of the picture. There is no point just looking at one part; you need to look at the whole.

**Mr SPENCE** — I will be short, because most of it has been said. I want to take you to an example which I think will help to crystallise for you the complications of this for local government. I am talking about the Shire of Gannawarra, so Peter Walsh's territory. I was talking to the CEO in the last couple of days. They are affected by two things: the FAGs freeze — the financial assistance grants freeze — and the rates cap. Their total rate revenue is \$10 million, which means that a 2.5 per cent increase is \$250 000. The increment movements within the banding structure coming off the award base and the enterprise agreement are worth \$125 000, so half the \$250 000 uplift they get off their rates, because there is no FAGs increase. The \$125 000 is just for the banding movements based on the employment structure they have got; \$25 000 is for increases in postage costs from 70 cents to \$1 from Australia Post, using their normal communication models and numbers, leaves them with \$100 000 to deal with EBA movements and any other utility costs and other cost movements. What they say to me is that because they have no idea about the complexity or the process that the ESC is running, they are cautious about making an application, because making an application would probably cost them, in their view, maybe up to \$40 000 in terms of putting the effort together, and a loss in that application means they are in serious strife.

What I would say to you is that across the rural sector in particular at the moment — the likes of Buloke and Loddon and councils like that — it is a very hard gig to run at 2.5 per cent with financial assistance grants frozen. They are not getting enough uplift in their revenue. So the way we are approaching this is it is a given that it is in Parliament. The only group that seemed to not support the legislation were the Greens, so thank you, Greens. The way we are approaching this is to say, 'Well, this is obviously here. It looks like it will be here for a long time'. We are working in a systematic way with the feds in trying to get the financial assistance grants dealt with, and then we are trying to engage with the state on those areas where we have formal agreements over time with the state on funding arrangements but the state is not meeting them. Some of this might look insignificant, but it all adds up.

For maternal and child health we are now a year and a half out of whack in terms of the true cost alignments for the delivery of that service. There was no escalator last year. We may get an escalator this year, but getting back to the 50-50 agreement is important. For school crossing supervisors the agreement is 50-50. The current the arrangement is 18 per cent from the state, not 50 per cent. SES is a mess in terms of its funding structures, and I can go on. There are a whole lot of others.

What we are trying to do is work through those systematically with the state to negotiate a realignment of the agreement. What we want to do is get the whole issues about funding relationships between state and local governments on those core services opened up. Kindergartens are another classic example of it, where we have got a part state-funded and part local-government-funded model that needs to be resolved.

The third point we are talking to our members about — we are out doing regional meetings at the moment, and we are getting strong take-up on this; whether it ultimately gets delivered, we will see, but in the discussions we are getting strong take-up — is that local government will not take on any additional obligations from the state, like flood levies or the stuff that rolls out of the environment about water plans et cetera, without a proper funding stream that is set in an agreement, that has a life cycle, and that if the state stops funding under the agreement, the councils stop doing the work.

I think we can discuss rate capping until the cows come home, but our attitude is that it is there. What we need to do is resolve the other issues where the state is failing in commitments and obligations to our sector.

**The CHAIR** — I thank all of you for those contributions. There are probably just a couple of points I will make on that. I might go backwards in order. Rob, it would be helpful if we had some very hard examples of those areas and some additional figure work behind them. That would be very helpful to us to understand a number of these points.

**Mr SPENCE** — Chair, there is just one other point that I should have added to that — the landfill levy. The state is currently sitting on in excess of \$450 million collected through councils out of the landfill levy. It is sitting up at 1 Treasury Place — —

**The CHAIR** — A pot of gold.

**Mr LEANE** — I have seen it.

**Mr SPENCE** — You have seen it? I have smelt it, but I have not gotten close to it.

**The CHAIR** — Is there a dragon protecting it?

**Mr SPENCE** — I think Tim Pallas is sitting on top of it. It was collected through councils, and its original purpose was to be used for the environment — but for landfill and waste recovery — and it is time it is opened up and put back into those councils that are struggling to deal with legacy landfill issues. East Gippsland has, I think, got 18 legacy landfills it is trying to deal with all over that municipality. There are a lot of issues that we can service on this.

**The CHAIR** — Any detail that you wanted to provide on that would be helpful. Andrew, I note that you mentioned that the VLGA had commissioned some work. If there is any of that that you could make available, that would be very much appreciated. In terms of some general points, the one thing that I am struggling to understand is the sequence. Tell me if I am wrong as I describe this. The legislation went through on rate capping, and the CPI for the financial year just gone was 1.1 per cent. The ESC went through, let us call it, its methodical process and came back with a figure just north of 3 per cent. Then the ESC report, and tell me if I am wrong in this sequence, went to Local Government Victoria and then to the minister. The minister then came back with a decision of 2.5 per cent.

The only figure that people can see that hooks to that is the Treasury estimates that go forward, but as I understand it the Treasury forward estimates CPI — it is not actually a CPI, it is an estimated figure — comprised a certain basket of goods which is not the same as the consumer CPI that is put out by the ABS. It is also not the same as the municipal index. Do you want to reflect on that and the different indices, if I can describe them like that — I am looking for the plural here. The issue to me also is how that decision is made, because there has been no public explanation of that decision, no transparency. I will put on notice here that I will ask Local Government Victoria what its advice was to the minister, but there has been no actual formal explanation as to how that figure was arrived at.

**Dr HOLLOWS** — I can make a start on that — and to you, Rob — about the index, if that is okay. Many were operating under the original figure proposed in the draft report by the Essential Services Commission of 3.05 per cent. My understanding is that comprised a weighting on CPI — I think perhaps DTF forecast CPI — and a weighting around assisting EBA commitments, so a wage cost weighting as well. We were therefore surprised that when the final report came out the wage price index had been removed, so there was no recognition within the base annual rate cap figure that consideration would be given around existing contractual arrangements around EBAs. Let us remind ourselves: for most councils, particularly metro councils, wage costs is a large, significant and — just based on normal cost of living — growing area there. That was our first reaction.

Our second reaction was that we know regardless of if people agree or disagree with the DTF forecast figure, we understand the trend, we can understand where it is going into the future. So again my point before, Chair, is that the implication would suggest that the movement is southwards, so 2.5 going down to whatever it will be into the forward years. So that, we would imagine, would pose a considerable financial challenge for any council, but especially so the rural councils, as Rob articulated previously. Sitting around about 2 per cent is a major struggle, considering the existing costs. Doubly so in the context that I think it is about 50 or 60 per cent of councils at the moment are either negotiating or will be negotiating this calendar year an EBA.

And our third observation is that regardless of all of that, there was an opportunity for the minister to establish many rate caps as described in the legislation, either by type of councils or individual councils, where you have got a uniform annual rate cap of 2.5 per cent. Rather than LGV or Essential Services Commission saying to the minister, 'By the way, these are the unique circumstances of Gannawarra. Why don't you consider some flexibility there?', the onus of proof was put back onto the rural council to seek a variation through the Essential

Services Commission. So in terms of your substantive question, it went from 3.05 and downwards because wages were taken out. There was no recognition of the particular circumstances of individual councillors, even though there was an opportunity to exercise that, and now unfairly it puts the onus of proof back on councils to seek a variation in a very short time frame with a process which is yet to be tested.

**The CHAIR** — And the costs of producing the submission.

**Dr HOLLOWS** — And it is costly. You know, you talk to Yarriambiack — to get someone to sit down to write a submission they need to take a customer service officer off the front desk. That is not good.

**Mr SPENCE** — So it is just the index. The ESC was given a task to provide advice to government. The government's commitment pre-election was for a rate cap at CPI. The ESC came back with a model — this is my interpretation of it — that included the CPI estimates from Treasury plus a component for adjusted overtime to allow the councils to sort of realign their cost structures. In the discussions I have had with Ron Ben David he was talking about that stepping down, back to CPI over a period of time. Ultimately we ended up with a model that was consistent with the policy statement of the now government pre the election — that is, they came out with CPI based on the Treasury forecasts.

**The CHAIR** — It is not actually CPI, it is estimated — —

**Mr SPENCE** — It is not CPI, it is a forward forecast. I would say from a local government viewpoint, thank God for that, because we would be at 1.1 otherwise. So there are certainly a number of issues about the flexibility of the model and so on. We understood the government's commitment. That is what they actually delivered. Whether it is the right model though, I think that is a serious question mark.

**The CHAIR** — Do we know how the minister arrived at this decision? Does anyone know that?

**Mr SPENCE** — My take on it — the Parliament gave the minister the power to actually ultimately determine what the cap is.

**The CHAIR** — I accept that. That is what the power says, but I am just trying to understand how and why.

**Mr SPENCE** — I think you need to talk to that gentleman in the back of the room there who can probably answer that.

**The CHAIR** — He can tell me in a minute.

**Ms HADDOCK** — Could I just add in there that we do not know how the 2.5 was come to, but most councils — —

**The CHAIR** — By dartboard, do you think?

**Ms HADDOCK** — It was very poor timing. I know my own council had started work on its budget in November. We were looking at a 3.05 or slightly less, a 2.5, and we are a smaller metro council. In the first year that was over \$1 million savings we needed to find. In 10 years that compounds to 86 million, so it was poor timing. It does not give us a lot of time to plan, and then the variation process — most councils are not in a position to apply for a variation this year.

Could I just also add, just on the EBA issue, even if we are able to negotiate a 2.5 per cent salary increase, and I note the state government increase, I believe that has been publicised, is 3 or more. For us a 2.5 per cent increase actually means a 3 per cent increase, because we have, if you like, band creep, so for all the banded offices, which is the majority of staff, they move up bands as well as getting their increase, so really for most councils we will need to try to negotiate a 2.2 or below increase, which is quite difficult when the state government increase is considerably higher.

**Dr HOLLOWS** — If I can, Chair, just to answer the second part of your question, we have to remind ourselves that the legislation requires the Essential Services Commission to provide advice to the minister at the time when the annual rate cap is set. The minister, quite rightly, can either choose to take that advice on board or to ignore. What is missing in that equation is that there is no obligation on either the ESC, LGV or the minister to actually reveal what that advice was. On what basis — —

**The CHAIR** — Explain it.

**Dr HOLLOWS** — To explain why was the 2.5 per cent uniform rate cap set. I guess our question mark is: therefore the same body, the ESC, who gave that original advice to the minister is now the body that will be adjudicating on the rate capping variations. They already have announced that position.

**The CHAIR** — Did they go back to the minister too for rate capping variations?

**Dr HOLLOWS** — No, my understanding is it sits with the ESC. But my point is that the Essential Services Commission is well placed to provide that advice to the minister, that advice around Christmas time — there is no obligation for it to be made public in any shape or form — but it is also the same body, three or four months later, that will be adjudicating effectively what is an appeal. An application process for a variation is, in its essence, an appeal against the minister's decision.

**Ms BATH** — In the previous government there was a program, country roads and bridges, where \$1 million was given to 41, I think, or 40 councils throughout the regional areas. This no longer exists, and I am interested to know, from anyone, what you have heard from your councils of the impact that that has made and what they are doing to address that. Are they borrowing money? Are they just not fulfilling that? Can you inform us of those issues?

**Mr SPENCE** — So it is having a significant impact — short-term at the moment — in rural Victoria. It was a much-loved program, and there is a lot of hope that with the 700 million coming off the port sale back into rural Victoria the government will see some benefit in actually providing a proportion of money into the rural councils to support them with their infrastructure needs. We know that the debt at the moment, on our current data, is not rising, but you can expect it will under rates capping. I was just looking at the numbers coming out of Scotland, for example, which has been in long-term rate capping. Now they are up at A\$15 000 a household in debt relative to councils, and that is caused because of the constraints on the revenue side. So we would expect that to rise.

We run the local government funding vehicle, which is a vehicle that takes councils into the bond market to get very low priced debt, and we are still only running at about 100 million a time, which means that the pressure on debt is not too great, but you can expect it to come. I think in I would say two to three years you will start to see the pressure on debt if other revenue sources are not found. Some of the metro councils are taking big leaks at the moment. I think Wyndham is going to be at about 60 million soon in debt to put infrastructure in.

**Ms HADDOCK** — I have a little bit of further information — through the Chair — on this. Actually I do have something here on that CRABP funding in terms of bridges and roads. There has not been anything to replace that funding. It did fund 900 roads and 100 bridges. So a number of councils are looking at alternate sources. For example, with rural roads there is the Black Spot program, but that is dependent on there being two casualty crashes on that section of the road. So that is obviously an issue. We do not want to wait for accidents.

**Ms BATH** — We do not want that to be an issue.

**Ms HADDOCK** — And there is the small bridges renewal program. I know we have some information from Yarra Ranges. They are waiting at the moment to see whether they have got funding from that. They have the Daveys Road bridge at the moment that is closed; they are waiting on funding. So it is a serious issue.

**Mr DALLA-RIVA** — Just a question from earlier on. You mentioned the implications of elections later this year. I do not understand how that plays into council decisions. On what basis is it that that is an assessment of the needs of the ratepayers or indeed the council determining whether they make a variation claim or not?

**Ms HADDOCK** — As you would appreciate, elections are every four years, so the councils currently will make decisions on their budget and their services and what they can deliver. The budget year starts on 1 July and at the end of October there may be a new council, so really that new council has to develop a council plan for the next four years.

**The CHAIR** — Quickly.

**Ms HADDOCK** — Yes, very quickly, and if it is a different council, they may have different issues, ideas, services that may have been decided to be closed or changed. The new council may have different decisions. So

it is not so much the election itself but the impact in terms of having an outgoing council making decisions for an incoming council, which may be a different council with different views.

**Ms SHING** — Thanks, everybody, for attending this evening to provide your further comments in relation to the policy. I have heard about how we need to be forward looking, and I have heard about how there are various concerns about the operational requirements that would underpin making an application for variation. As peak bodies, what are you doing to assist councils with the preparation of variation applications, when there is technology available which makes it a much more expedited and streamlined process to understand what the income is, what the outgoings are and what the investment requirements will be for councils in the delivery of programs and services, particularly by reference to rural and regional councils and particularly by reference to the very small councils? Because when I hear the evidence that indicates — I think, Robert, it was you who referred to \$40 000 or you, Andrew, who referred to this — taking a customer service officer away from reception in order to prepare a variation, why are you not filling that gap, and if you are filling that gap, what are you doing to assist councils as your memberships?

**Mr SPENCE** — I am happy to start. We have been in discussions with the ESC to understand what its requirements are, and we are endeavouring to communicate that with the councils who have shown an initial interest in going for a variation. So there were 21 councils initially; that number is reducing. Because of the timing of this, the officers at councils had to make a call on whether they would put the initial advice into the ESC before a council meeting, because the councils close down from maybe early December through to late January, Australia Day. So we get 21 applications based on those councils.

The numbers are coming back, and we are available to help them through it. The discussions we have been having with Ron Ben-David have been productive. I think they are turning their minds to how they deal with it. They want to see some examples of what to put up to work out how they are going to deal with it, because at the moment there is sort of no evidence base. So we are certainly available to help councils. And they know us. They know that that is the case. We have got a significant database of council cost structures and so on, and that is there for them. But there is a nervousness about going through the process without actually understanding what is required really in fine detail, and I think after this first round, when people understand the process, we are likely to see more applications I think.

**Dr HOLLOWS** — Certainly from our perspective we have been insisting on talking face to face with many of those 21. That started pre-Christmas, when we had our rate capping task force to look at the types of documentation we thought fair and reasonable for a variation process.

**Ms SHING** — Sorry, when you say before Christmas, when do you mean? Because you have indicated that councils close at the start of December and do not open again until the end of January.

**Dr HOLLOWS** — Our rate capping task force was probably late October, early November. All our material is on our rate capping website. We engage with many councils through their finance directors and CEOs and some councillors as well. This material was presented to the minister about what we thought would be fair and reasonable documentation. The intent is that the documentation, that paper trail, is consistent with what councils already provide. That remains our position today.

Even just a few weeks ago we had a meeting in our office with around about seven or eight councils who were seriously thinking about a variation. We have prepared, based on conversations with councils, ESC, colleagues north of the border, among others, our guidance notes around each of the six criteria. We sought financial advice, because we know ESC has access to grants commission data and things like that as well.

So our advice has been pretty much hands-on, which is: if you are going to do it, do it well. Be aware of what the ESC knows about your finances. Be aware that they want to hear and see a cogent story. Be aware that your evidence against each of the criteria needs to be well grounded. Be aware that you need to argue your case around have you consulted with your community. But also, do not be shy. You have been talking with your community for the life of the current council term. It is not just a once-off consultation. You have developed council plans. You have done your strategic resource plans, so on and so forth, and be clear. The intent of putting in an application is to stand behind your decision and demonstrate that, as a council, as elected councillors, you are the decision-making body — not the EEC. They have not been elected by ratepayers and the community, but councillors have. So our advice, our support, is very much hands-on. If particularly a small

rural council wants us to sit down with them, look at their material, the offer is on the table and the offer remains on the table.

**Ms SHING** — Thank you, and just very quickly on a further follow-up to that question and the answers that you have given: what has the feedback been from individual councils about the level of support and hands-on assistance and information, guidance notes et cetera that you have been providing between the VLGA and the MAV, respectively?

**Ms HADDOCK** — Could I add that LGPro also is supporting councils through its training program, so we do provide training in regard to preparing council strategic resource plans and community engagement. Obviously we are focusing on the officers, and the two other organisations are focusing on advocacy in a different area.

**Ms SHING** — And what has the feedback been then from all three of the organisations, just very quickly, in relation to the support and service that you have been providing?

**Dr HOLLOWS** — The feedback is that if folk have decided to sit in a car for 4 hours to drive to a meeting in Melbourne to talk with you about the rate capping variation process, I think that is very tangible evidence that they are looking, are seeking and needing support and assistance about the variation process. Our commentary has always been very clear for the 21 councils, and Rob is right, I think we are probably down to — what, 6, 10, maybe more?

**Mr SPENCE** — Could be five.

**Dr HOLLOWS** — But that being the case, we respect the democratic right of each council to make their own decision based on the evidence and the support and the ability for them to put in a variation process. I would be guided by commentary from others to what extent they have found our advice and guidance of use.

**Ms SHING** — Any direct feedback to you, Rob, or you, Celia?

**Mr SPENCE** — The councils that we have been talking to I think are pretty well on top of what they want to do. They have been having consultations with the community about rate increases. Because we do not know what the ESC model is going to look like, it is very hard for us to give anybody guidance. We can just help them with information. We can provide them with the economic support and finance support and so on, but ultimately, until we get through this first round, it is going to be hard to tell. So it is sort of a suck it and see, and Ron Ben-David says the same thing to us. He says, 'We want as many applications done as possible, so we can actually work out how the model is going to work and really what we need'.

I am not getting people coming and beating our door down saying, 'Come and help us'. I think the ones that we are dealing with that look like they may make an application seem to have the capacity to actually put the data together to make the case, because they have had long-term financial plans, long-term council plans. Those plans have all had the numbers built into them, they know what sort of gets dropped off the list if you do not get the dollars.

**The CHAIR** — It is adjusted.

**Mr SPENCE** — Yes, that is right. So, from that viewpoint, I think we will know when the ESC finishes their consideration of 21 or 5, or how many it ends up being, as to what the model looks like.

**Ms HADDOCK** — We have really had the feedback that the timing is very difficult to get all the work together required for the variation. I know Rob mentioned the 22, but obviously they will not all be proceeding, and most councils seem to be looking ahead. If they can get through this year — and some of those, Buloke and other councils cannot, but for those that can get through this year — we understand the opportunity will be to apply for a variation across the four year, which then fits with the planning for the council plan et cetera, and the new council. So most councils, I believe, are moving that way, from our information.

**Mr LEANE** — In line with what Harriet was discussing then, the evidence that we have got is very much in line with what Mr Spence described around small rural councils. So I am actually surprised if there are only going to be five.

**Mr SPENCE** — That is my guess.

**Mr LEANE** — Yes, and fair enough. Without prejudice, I am surprised. Part of the reason I am surprised, and I suppose the question for the association, is that our evidence from the small rural councils is that their challenges — and we take their challenges as genuine challenges, this committee — are all very similar, if not the same. So I would have thought with those councils and the association there could have been some sort of template around those challenges, when you take into account the six criteria, to make an application for a variation. I am surprised that has not happened. Just for comment.

**Mr SPENCE** — Can I make an observation about that? What we are finding in the discussion with the rural councils as part of our being out on the road at the moment is that there is a real tension with the dire state of a serious number of the rural communities in Victoria with drought et cetera and the capacity of councils to put any more load on them than the 2.5. There is a tension point in this where, for example, the Buloke council were saying to me, ‘We would rather not even go with 2.5 if we had the capacity to’. So I think this year is a bit of an aberration because it is a drought year.

It is very difficult for a lot of these communities. Travelling around the state, it is awfully sad out there, as you know. The only solution I can see is for the federal and state governments — and both are under stress financially too. I saw the press release in the last couple of days about more help going into rural and regional, but for these councils to sustain the services when the people need them, when they are hard up, their farms are failing and they really struggling, there has got to be another source of revenue to help the council through, so federal and state support is really critical.

**Dr HOLLOWS** — I may add that many of those small rural councils are between a rock and a hard place. Do they really want to seek a rate variation? Yes, because under the financial pressures that is the only way forward. They have not got any latitude with fees and charges or grant funding to date. But do they want to impose an additional rate burden on their ratepayers? No, so they are caught between a rock and a hard place.

In terms of the template, certainly the information we provided in our guidelines — and I encourage the committee to have a look at the material — is there to ensure that, rather than doing template cookie cutters, each council has been invited and basically told by the Essential Services Commission, ‘You need to tell your unique story’. It is, ‘Tell us your story’. It is not a tick-the-box template as they do in New South Wales. We actually have a formal process: ‘Tell us your particular circumstances; tell us your unique story’. The problem is that there was an opportunity for that story to be told in December and for it to be reflected in a revised annual rate cap, and that did not happen. Now the onus is back on those councils to do the hard yards and to say, ‘Yes, within the criteria these are our particular circumstances and these are our particular features’. Are there commonalities? Of course there are; there is no doubt about that as well, but the ESC has made it very clear to us that it will be assessing each individual application on its merits and the story that it tells.

**Mr LEANE** — But I would argue, Andrew. We, as you know, did a number of regional visits to develop the last interim report, and the councils were telling us that they knew exactly the challenges that they believed they were going to face. So to say that in December they had no time to actually think of an application and where they fit in the criteria, to me, I find actually quite surprising. Actually taking Mr Spence’s evidence that their ratepayers are under stress — and they have completely taken that into account — I would have thought that if any council was going to apply for variation, that is probably the area that would have sat. Therefore I would have thought the work would have been done by yourselves to actually be able to pull the trigger if that is what they chose to do. I just find it surprising.

**Ms HADDOCK** — Could I just, through the Chair, answer that in some way? I understand that the actual final guidelines for the variation did not go on the LGV website — and I am sure LGV will be able to confirm this — until December, so actually we did not know what we would have to respond to in a variation report until very close to the cap being announced.

**The CHAIR** — The witching hour.

**Mr LEANE** — I suppose in response to that I find it surprising that you would not have actually had some idea of what would have been requested for a variation without having to wait until December to see the final document. I just find that surprising considering the evidence that we had all last year. As I said, the members of this committee genuinely understand and accept the challenges that regional councils told us they had.

**Ms DUNN** — Thank you everyone for your submissions this evening. Firstly, I just wanted to go to the potential for cuts this year. I realise that it is an election year, and I realise that councillors who are standing for election are loath to be cutting anything at all in any way, shape or form. But I am wondering if any of you is aware at this point in time whether there have been decisions made around either service cuts, infrastructure cuts, infrastructure maintenance cuts or staff number cuts as part of the budgeting process. I also realise in asking that question that many councils are in the midst of finalising their draft budget for public exhibition as well, so you may or may not know of those things.

**Mr SPENCE** — For us there is a lot of talk about the impacts and what action may be taken. At this stage we are not getting the actual detail of it. There is a lot of talk about cutting school crossing programs, stopping funding SES — Wellington are out on SES. There are a few councils who have pulled out on SES. Campaspe is out on SES. On school crossings Northern Grampians are out, and others are lined up behind them. There is a lot of little stuff that is bubbling away — for example, burn certificates with the CFA. Stubble burning during the fire danger period is — I should not say it — creating a lot of heat out there. The councils are the ones who issue and have been historically issuing the permits, but they have become very concerned about their long-term liabilities of issuing them and what protections they have. What this has done is it has surfaced a lot of those fringe sorts of activities that have been jointly conducted by state and local government where it has been done under trust. These things are surfacing, so we are starting to see little issues — not little issues, issues — popping up all over the state, saying, ‘We’re getting out of this. You’re dreaming if you think we’re going to put in flood levees or try and roll out this program or that program. We’re not playing any more’. We are seeing more of that.

I think where we will see the first hit is that the infrastructure spend will decline, so we will see a replica of what has happened in VicRoads. When VicRoads had significant cuts out of it, it just throttled back on the spend, and it is reflected in the quality of the infrastructure around the state. You will see the same thing happening in local government, I think, as the first step.

**Dr HOLLOWES** — I will concur. Infrastructure is always the example which is pointed to with issues of rate capping or rate pegging locally and overseas. You defer, you delay; you do not do. You do not see the impact today, but you certainly would see it in the fullness of time.

But also, as I mentioned in my opening comments, rate capping has brought to the surface a whole range of issues around the appropriate — or maybe not the appropriate — funding of things that councils have been asked to do, usually on a shared basis. We have to remind ourselves that local and state government, at the end of the day, we serve the same communities. We are there to provide a good community outcome. Councils are there as stewards of community resources and certainly to promote community wellbeing. This is not a, you know, ‘Don’t want to do it; don’t need to do it’. But in the reality of the federal system and with the states having these similar sorts of discussions with their colleagues at a federal level, it has to be a sensible conversation about who does what, how is it funded and who has what obligations, not just for the legacy services, but looking forward to the remainder of the term of this state Parliament, what else is on the horizon which may have an unintended cost burden that goes back onto councils and onto ratepayers?

**Ms HADDOCK** — LGPro is not aware of services closing, but we are aware of councils where they have reduced their service levels in certain areas. Particularly in the HACC area, which is home and community care, that gap — that cost shifting that both speakers were talking about — councils are moving towards reducing that, so reducing the number of hours provided for services such as maternal and child health and HACC. We are aware that in some rural and interface councils staff have been reduced, and we can probably provide some more examples of that if you like.

**The CHAIR** — I think it would be welcome if any of the three organisations could provide some of that information through the secretariat. I think we are going to need to get to some consolidated view on that.

**Ms DUNN** — I think it is probably worth even revisiting as budgets are struck as well, because it is probably a bit too early in terms of the council timing budget cycle. It may be a bit early, so it would be good to, I guess on a rolling basis, if that is possible, Chair — —

**Ms SHING** — While we are on the list of things that might be provided, it would also be very useful if you could provide examples, de-identified if necessary, of the types of specific assistance that you provided across

the three organisations to councils in the process of gathering data, understanding the application process and variation, boundaries, guidance notes et cetera.

**Mr LEANE** — David, can I ask — sorry, after you — in light of the question that you just asked, in the response — —

**The CHAIR** — Keep going on that. We will finish that question and then Samantha will finish her last one.

**Mr LEANE** — Rob, with ‘We’re not playing any more’, I am finding that is not completely true.

**Mr SPENCE** — Sorry, could you just say that again?

**Mr LEANE** — You said, ‘We’re not playing any more’, as in ‘We’re not going to play in jurisdictions that aren’t ours traditionally’. If that is the case, then maybe your members need to actually be fair dinkum about not playing any more. I will give you an example of only last week where I got a letter from a council advising me that it engaged a lift company to look at one of the state government projects — no council money into it at all — about the capability for lifts to be put in a certain section of that particular project. If they are not going to play anymore, they should be fair dinkum and not play. Look, we are politicians. We understand that it is a council election year. We know there is politics in everything. But I just find it a little bit ironic.

**Mr SPENCE** — Well, it is a broad flock, okay? As I have said to councils recently, in my time — and I have been in this job at MAV for 17 years — rarely do we get all the ducks lined up where you are getting consistent practice. It is like getting all the states lined up against the feds. But I think on this issue I am hearing a much more consistent voice. That is not to say that you will not get a breakout.

**Mr LEANE** — Fair enough. I was just giving an example.

**Mr SPENCE** — But your point is well made. You know, 79 councils, different views, different communities and so on, but the message is much stronger than I have ever heard it. They are not saying, ‘Let’s not do it’. They are saying, ‘Let’s do what we did with the tobacco agreement with the state under John Thwaites’, which is to reach an agreement that we would only provide the service — and it has worked very effectively — the parameters of the service establish what the state’s desires are, the funding is established and the council delivers it. The state knows that when the funding agreement stops and the state stops the funding, then the service stops.

**The CHAIR** — I think Samantha has got one more.

**Ms DUNN** — I do have a couple more, Chair. I am just wondering, as part of managing a 2.5 per cent rate increase, are any of you aware of any councils that might be selling off, at the moment, assets they might have — surplus assets — and actually putting that money into operational funding?

**Mr SPENCE** — I heard the term ‘sweating the assets’ today for the first time amongst CEOs, so — —

**The CHAIR** — What does that mean?

**Mr SPENCE** — That means maximising the benefit out of the assets you have got or actually getting rid of them. This is very private sector language. I think you will see a rationalisation; I think that is a natural, so land surplus and so on. You would expect all of those issues to come to the surface in the process like this.

**The CHAIR** — Rob, on the other side of that, just to intervene on the same point, debt. If councils are pressured and so forth, they can move surplus assets or sweat the assets or whatever you want to call it, but they can also go into debt.

**Mr SPENCE** — Yes, they can.

**The CHAIR** — Is that happening?

**Mr SPENCE** — What I am saying is that at the moment the debt levels are relatively low; they are not heavily geared, councils.

**The CHAIR** — But are they moving?

**Mr SPENCE** — It is too early, I think. You will see the cycle in probably not this budget round but the next two following it. We are seeing most of the debt rolling into the interface council groups, you know, the growth areas — Wyndham and so on, Casey — where they have massive infrastructure demands. They have passed 90 babies a week I think in Wyndham now, so that is a cracking rate; that is a school every nine weeks or something. It is just massive growth.

**Dr HOLLOWS** — Through you, Chair, on the question of selling assets, I am aware of one council, a larger council in metro Melbourne, which may be considering reducing some of their land holdings. It does worry me as a general principle the idea of selling assets to cover your operational costs; I do not think that is a particularly smart way of operating. It is what you do in the short term to make do when you do not seek a variation essentially.

The issue of debt is a fraught one, as the committee would be aware, for the local government sector, because there is a school of thought which is that low interest rates, use debt — smart finance — you do not use it for long-term assets. In principle that is fine, but there is an additional layer here that we need to remind ourselves of when we are talking about issues around local government. We are talking about an upper level of government, like it or not, with elected councillors who test the pulse of their communities, and the general response from most communities is that if you are going to use debt, do it prudently and make sure that you have the capacity to service that debt. But many would shy away from using debt more broadly because that is a strong message they are getting democratically from their communities.

So the philosophical question, so to speak, of debt, there are many commentators out there in the sector who would advocate quite strongly for debt; I read one of their papers today. But there is also the reality at the elected level and the appetite and the interests and the concerns of communities for that decision to be made, and ultimately that decision sits at the local community. It should not sit offline through pressure through an ESC process. So we understand if it is used prudently and there are adequate guidelines, but the ultimate arbiter for deciding that is the local council in consultation with its community.

**Ms HADDOCK** — I will just make a small comment through the Chair on those two items. I do not know that we are aware of councils selling assets but we are aware of councils reviewing their renewal gap in terms of infrastructure and the period of time they will take to do that, so letting the infrastructure run down a little bit longer than they might have. I would just support my colleague's comments in regard to debt and the issues and the fact that we are not — ask us that same question in two years time I think.

**The CHAIR** — But there was scuttlebutt going around the sector that you have a lazy balance sheet; just clean it up, use it, do not be afraid of some debt. That was put to me at one particular location.

**Dr HOLLOWS** — Certainly in the development of our materials, our concrete materials and advice guidance notes to councils about doing a variation process, we were certainly advised informally by the ESC that you need to make mention that councils need to demonstrate that they have a debt policy. It does not mean that they have to use it; it means that they have thought it through. I am not saying that there is anything untoward here, but it does raise concerns, which the sector raised much earlier in the piece last year through the initial consultation process initiated by the ESC, that people were hearing strong messages about, 'Why aren't you using debt? Why aren't you using debt?'. So that has stayed with the sector ever since, and there is a prevailing view — and time will tell through the variation process if this is true or not — that the ESC will look at your balance sheet and there is a concern that if you are not using debt at a level that the ESC thinks is appropriate, that will be one of the things that will stand against you in seeking a variation.

**Ms DUNN** — Just one more, thank you, Chair. It is in relation to those councils who decide to go for a variation, and there are a range of things they need to check off on and the ESC, I guess, checks whether they have done those various things. Andrew, you talked about transparency, consistency and integrity in terms of how the decisions are applied to that. Rob, you talked about the reticence of councils to apply because of the lack of examples and there is no evidence base to work from at the moment. I am just wondering in terms of all of the peaks here today whether you have been in touch with the ESC and actually asked them directly for that information and has that information been forthcoming to the local government peaks?

**Mr SPENCE** — We commenced the discussion with the ESC probably in August/September last year. Our position to the ESC is they should provide guidance material and a template as to their expectations in terms of what a submission would look like. They declined, and I made numerous appeals on it because we saw it as

fundamental. We remain disappointed that they did not do that, because it would have made life a lot easier for the councils to understand really what the ESC would require — —

**Ms DUNN** — What they want.

**Mr SPENCE** — That is right. They were very blunt in their view that they are not in a position to actually give guidance at this stage, and there is still no guidance really.

**Dr HOLLOWS** — Certainly from our perspective we had similar conversations but took a different view, which was that the onus should actually be on the sector to tell the ESC what we think is a fair and reasonable process. It goes back to the work of our rate capping task force — all the materials are on our website — what the documentation was and whether it was true to the word of the wishes of the legislation. The application process is there to draw on the existing documentation that councils generate through their planning and budgeting process, nothing more — they do not want the \$50 000 consultants that New South Wales tends to do. It draws on the existing processes, the existing documentation at councils, to varying degrees already provided. So our strong advice to the ESC, to the sector, to the minister — it is all on the public record — has been that this is our understanding of what an application process should look like. Of course the ESC is not in a position to say yea or nay on that, and we will in due course just see.

Through you, Chair, the original intent of the question was around transparency and consistency. Yes, we want there to be variations to say, if one knows the rules of the game, that there is consistency in the application of those rules and that there is no ambiguity about the level of documentation required so that if we win next time around — because there will be a next time around — those who do need to seek a variation have a very clear understanding of what the requirements are, and it is a fair and reasonable burden on those councils to do so.

**Mr SPENCE** — We took a different approach because we thought the ESC would be like going to the taxation department saying, ‘I’ll decide what my tax return will look like, and you can assess it’. So we went to them and said, ‘You tell us what you want, and then we’ll tell you whether we think it’s reasonable or not’.

**Ms DUNN** — But it sounds like both roads led nowhere or to no clarity.

**Mr SPENCE** — Well, both roads led to where we are now.

**Ms HADDOCK** — We also met with the ESC, and we also talked about the need for templates and guidance, and we are still waiting. We are not sure where things are at, actually.

**The CHAIR** — I think we are going to have to draw a line here because we are quite a bit over time. I thank the three organisations for the submissions. I indicate that there are a number of things we will follow up, and Keir will follow up with those. I think over this next period we will also want some further discussions. We are very appreciative. Thank you.

**Witnesses withdrew.**