TRANSCRIPT

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into rate capping policy

Melbourne — 18 October 2016

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Ms Harriet Shing — Deputy Chair
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Witnesses
Dr John Hamill (affirmed), CEO, and
Mr Andrew Chow (affirmed), director, local government, Essential Services Commission.
The CHAIR — I welcome Dr Hamill, the chief executive officer of the Essential Services Commission, and Mr Andrew Chow. I apologise for the delay. We will be as swift as we can. Dr Hamill and Mr Chow, thank you for providing further evidence to the committee. Since we met last time there has been a review undertaken, which we have heard about considerably this morning. What I would ask you to do is to lead forward with a short statement, and then we will follow with some questions.

Dr HAMILL — Thank you very much to the committee for the opportunity for us to talk today. Firstly, I would just like to pass on my apologies from Dr Ron Ben-David, who would have liked to have been here but unfortunately is not able to be.

The CHAIR — Is there a reason for that?

Ms SHING — Maybe your public comments about the Essential Services Commission, Chair, including not coming along — —

Dr HAMILL — It is a health matter.

Ms SHING — Being referred to as a ‘goon’ or a ‘patsy’ probably tends to dissuade people from appearing before a chair of a committee that has got preconceived ideas about them.

The CHAIR — It does. I have well-formed ideas.

Ms DUNN — But it was not essentially that issue.

The CHAIR — I am happy to have it recorded that he is ill and is not here for that reason; otherwise we will have him back again.

Dr HAMILL — We last appeared before the committee in March, so I thought today it would be helpful for the committee if we had a small handout which we have tabled for the committee’s assistance. It really just covers three matters. One is a bit of an overview of the process since we were last here. It also includes a summary of the actions we have taken in relation to the recommendations that were in the committee’s last report and the actions that we have taken to respond to those recommendations, which we found very helpful. Finally, there is just a very brief summary of the decisions from the round.

Without further ado, I just thought I would basically give you a bit of an overview of what we have been doing in the round since our last appearance and also talk to you a bit about some of the issues that we are aware of that have come through the range of reviews, reflections and feedback we have had from stakeholders and our observations on that. I think they are very consistent with what we just heard in relation to some of the comments before.

We have now completed our first year of implementation of the Fair Go rates system within some very tight time frames. The first year higher rate cap notification application and assessment process took place between January and May 2016. The assessment process itself went between April and May, over two months, so it was a very short time frame. The January period was just when the notifications first arrived. A total of 10 councils applied for a higher cap, with one subsequently withdrawn, and we made nine decisions, rejected three applications, part approved one and approved five, so the attachment outlines that. There is a slight confusion around the order of the attachments; I apologise. Attachment 1 is actually at the back.

So when we went through the application assessment process each application was assessed on its own merit. The commission had no predetermined view about how many would be approved or rejected. Our assessment was based on the legislation with the overarching requirement that the commission needed to be satisfied that the higher cap was in the long-term interests of ratepayers and the community. At the same time any rejection of a higher cap should not compromise the financial capacity of the council in performing its functions. The matters addressed in the applications were largely drawn from council’s existing statutory obligations in relation to planning, budgeting, financial management and community engagement.

Our assessment framework comprises little additional work in our view on the council, with good budgeting policies, plans and engagement mechanisms in place. So, for example, one of the smaller rural council’s application for a higher cap, on which we provided feedback to the commission indicating that actually it
required some minimal additional resources and needed to prepare its case and relevant information. I think that was Towong.

For some applications, though, it was clear that there was some significant additional work adjusting to the new framework, and we kind of take the view that this impost will reduce over time as the familiarity with the processes grows and understanding of the information required by the commission to make our assessment increases. In addition, I think, as councils incorporate the higher cap application process into their normal annual corporate planning activities, ongoing costs should become negligible. Ideally the application to the cap process should be incorporated into that planning process so that it all aligns in terms of stakeholder engagement as well as the application — as well as the information requirements.

Given it was the first year of the Fair Go rates system, the commission was very committed to getting feedback from our stakeholders, with a view to refining our processes and approaches. It is a very important part of good practice from my perspective that we act as an organisation that continues to look to improve in the way we operate. So we held debriefing sessions with the majority of the councils that applied, immediately after the application process was complete. That was both to explain our decision itself and to get feedback from them about their experience. We also conducted 10 workshops with councils in Melbourne and regional Victoria on the lessons learnt from the 2016–17 application process, and we conducted a workshop with the ratepayer groups seeking their feedback. We convened a couple of technical working groups, one on financial issues and the other on community engagement, with representatives drawn from the sector as well as expert practitioners.

These groups provided us with an effective forum to discuss the issues raised by the sector as well as developing responses to the concerns that were raised through that process. Finally, as you have heard today I understand, the commission asked Mr Peter Brown, former CEO of the Moreland City Council, to complete an independent review of the commission’s approach in the first year and to provide us with advice as to how we might improve the way that we worked. As the report and our responses are available on our website, and a number of the recommendations have already been incorporated into the revised guidance material that we published yesterday — and as I indicated in my opening session and in the handout we have got for you today — we have also taken into account the recommendations of the second report of the parliamentary committee’s inquiry, and we have outlined the steps and actions we have taken in response to those recommendations.

So on 16 October we released our revised guidance material to reflect the lessons learnt from 2016–17, which includes looking at application processes, feedback from the sector and so on, and findings from the reviews, and the updated guidance is now available on our website. We will be holding a number of workshops in November and December to assist councils in building capacity to plan and prepare for any higher cap rate applications and will be available to councils on a one-on-one basis.

So that is a bit of an overview of the process. We have taken the need to get feedback pretty seriously I think and have been really thorough. In terms of substantive methods I guess a few key themes and issues have come through from the feedback that we have heard. There have been views about the complexity and costs of our process. There have been views put to us about what our views are on the use of debt by councils. There have been views about the community engagement requirements that we have and whether they are too onerous or not, and also the workability of the time frames. I guess from our perspective those are the kind of big, substantive issues that were raised from us.

In terms of whether the process is too complex and costly, I think as you probably would have noted from my comments earlier today, in a sense what we have tried to do is align the information requirements as much as possible with existing information requirements that councils have in order to make sure the process is streamlined. But there are always areas for improvement, and that is a lot of the reason why we did the reviews that we have done. As Mr Brown noted in his reports, he thought that these issues would be resolved by familiarity with the process, clarity of the information required by the ESC for assessment, and improvement of the quality of the information presented by the councils over time. Our revised guidance as a result also provides more detail about our expectations to try and help councils with that, and we will continue to assist the sector in building capacity and seek feedback from them to make further improvements in this process.

In terms of the cost, we asked Mr Brown to specifically look at this question in terms of the cost for councils as part of his independent review, and he very helpfully came back with some concrete data from the sector on it, and by and large of the nine proposals, eight of the councils indicated costs of between $20 000 and $80 000 in
total for applying for the application process. There was one outlier that indicated the price cost was about $250,000. I guess when looking at those data we tend to kind of consider the outliers as maybe including other cost information that the other councils may not have. That is just to give you a bit of a sense of that issue.

In terms of the use of debt, we have heard some views from people, assertions that we have encouraged councils to incur debt or cut services as opposed to seeking a higher cap. I thought it would be useful just to clarify what the commission’s actual view is and to be really clear that the commission has not advocated and does not advocate that councils either increase or decrease their level of debt. Whether it is prudent or responsible to use debt finance will depend on the circumstances of each municipality and the judgement of the council. We expect a council applying for a higher cap to show that it is a well-considered debt policy, preferably one that has been consulted on with the community and adopted by the council, which guides their decision-making as to whether debt should be utilised to reduce the need for additional funding. In other words, as required by the legislation, the council’s application must demonstrate that it has considered the option of debt and the reasons for either adopting it or not adopting it. So we have put some clarity and clarification on that matter in our latest guidance, just so that there is not any ambiguity on that.

The CHAIR — Do you have a copy of that guidance note or can you make one available?

Dr HAMILL — Yes, we can absolutely do that. In terms of community engagement, as Mr Brown in his report noted, the community consultation requirements for application should not be a standalone process to satisfy a higher rate cap application but rather part of the council’s ongoing planning and consultation processes outlined in the Local Government Act. We agree that that is obviously the ideal and where people should be heading to. Engagement with ratepayers and the community in our view should be part of a council’s long-term plan, and we definitely encourage that kind of integration of that. This funding engagement should feed into the development of four-year plans, for example, to be part of our broader community engagement on key issues affecting the local government area.

As I indicated earlier, we have appointed an engagement technical working group, which began meeting in April. Membership of the working group is representative of the diversity of the local government sector and is made up of representatives from the metropolitan, regional and interface and rural councils. As a general point, we do not prescribe how community engagement should happen. It is really up to each council, the way in which it best engages with its community to ensure that it is fit for purpose, but the expert group can certainly provide guidance in helping us to assess whether that is the case and whether there is a clear link between what they are seeking from us, how they have engaged with the community on that and whether they have provided full and appropriate engagement with the community that links all of that coherently together.

The CHAIR — I am just conscious of time.

Dr HAMILL — Just very briefly, on the workability of time frames, that was a matter also raised by Mr Brown. He suggested that we add an additional earlier time frame for applications, on 30 September. We are open to having a look at that option. There are a few practical matters to whip through. Essentially we would provide an earlier window rather than the later window for the application for rate increases in the subsequent years. That is fairly much where we have got to, and I am happy to answer any questions.

The CHAIR — Can I begin, and I will try to be succinct, on a few matters. First of all, it is a pity that the essential services commissioner is not here. I understand he is crook, and I am respectful of that, but I just make that comment.

The second point I want to make is that I do notice that there is a response to some of our earlier committee recommendations, and we are thankful for that engagement.

The third point I wanted to make is on the Brown report. I think it is a useful report, and I want to make some comments about that, but I want to first go to the genesis of the report. My information — and I am happy to be corrected on this if this is not the case — is that the genesis of the report is a communication from the minister’s office to the essential services commissioner and a request for an internally generated report process.

Mr CHOW — That is not correct. You will recall that when Dr Ron Ben-David was here the last time he indicated that given that this is the first year of implementation and we can all learn from the first year’s experience, he committed to actually undertake a review. So that was the genesis of it.
The CHAIR — So the scope and the discussion that went on with the minister’s office was not part of framing that and not part of the choice of personnel to undertake it?

Mr CHOW — No. My team actually drafted the terms of reference, very closely aligned — —

Mr Melhem interjected.

The CHAIR — No, no. I am just asking the question. My further point is that obviously the Brown report is an engagement on some of the matters of process, but it is not on all of the issues that need to be dealt with. Is there a process to deal with some of these further issues?

Mr CHOW — Yes. In Peter Brown’s report there are 18 recommendations that concern the commission, bar one which we defer, and that is on community engagement. It is on the basis that the detail about the exact form of engagement that comes from the Local Government Act review is still to be established. We will not know what it is to agree on, so we defer until we have further details on that. The rest of the recommendations have been accepted either in full or in part. In those areas where we accept only in part, it is mainly because the details are still to be worked out. Say, for example, in one of the recommendations there is talk about providing a financial threshold. That is recommendation no. 1, a financial threshold.

We recall that in all our feedback from the sector it was always the view that one size does not fit all, so there is a great diversity. So one of the financial indicators, say for example, relates to the adjusted underlying result. To specify plus or minus 5 per cent, say, for a metropolitan council has a completely different magnitude relative to a smaller council. So on that basis we are really wanting to sit down with the sector and work it through to see what would be workable and useful rather than prescribing on a certain threshold.

The CHAIR — So in some of these recommendations, which are for government response, will you be having input into that? Will you be making comment?

Mr CHOW — The review was commissioned by the Essential Services Commission, and our response is actually on the website as well.

Dr HAMILL — I think you might mean our actions on the committee reports.

The CHAIR — Yes, I know. I see that.

Dr HAMILL — I think you might mean our actions on the committee reports.

The CHAIR — No, I mean, for example, recommendation 6, where it says ‘for government response’. Will you be having comment in that process?

Mr CHOW — No, I think it is left entirely to the government to respond.

Dr HAMILL — Obviously, Chair, there is no formal application for government to respond per se to that report, which was initiated by us. It was really just more a way of articulating the fact that the matter that Mr Brown has raised is really a matter of government policy and something we did not consider to be within our responsibility.

The CHAIR — But will you be inputting into that? Will you be making commentary is my question?

Dr HAMILL — That is up to the department whether it seeks input, I guess.

The CHAIR — Right. You are not proactively — —

Ms DUNN — Sorry, so you do not have a view in relation to that?

Dr HAMILL — No. that is why we have indicated that it is a matter for the government.

The CHAIR — I am just clear now. Following the variation process round, there was a debriefing. Is an assessment of that debriefing available?

Mr CHOW — There are file notes that were taken at the debrief. The offer to debrief all the nine applicant councils was given. Not all of them have taken that up.
The CHAIR — So is an assessment of that debriefing and the lessons learnt available?

Mr CHOW — The file notes, as I mentioned, taken at those meetings and the learnings from those debriefings are, as best as we could, reflected in our revised guidance material.

The CHAIR — So is there a set of learnings from that that is available formally to us?

Dr HAMILL — I do not believe there has been any formal documentation. What that was really about was just providing an opportunity for the councils to come and have a chat to us at the end of the process. I think, in the terms of the quality of the information from that, probably Mr Brown’s report is the most comprehensive bringing together of those views. It was more of a relationship management, ‘You’ve been through the process. Come and have a chat to us. Here is our decision kind of — —.

The CHAIR — And there were also 10 workshops conducted around the state.

Mr CHOW — That is correct.

The CHAIR — Are there learnings and summaries and assessments available from those 10 workshops?

Mr CHOW — Again there were notes taken. Can I even stress that at a number of those workshops we invited those nine applicant councils to share their learnings directly with the people who attended the workshops. So in one case I recall in Moe, Casey — the city council of Casey — was actually represented by Mr Andrew Davis I think. He shared his learning with the group of attendees at that workshop. The slides are available.

The CHAIR — They are available?

Mr CHOW — Yes.

The CHAIR — Great. Thank you. For all of those workshops it would be helpful if we have got the learnings that came out of those.

Mr CHOW — Just in general, yes.

The CHAIR — Thank you. You have engaged a technical working group. Who is on that technical working group?

Mr CHOW — There are two technical working groups. The one that relates to community engagement has representative councils from different metro councils, regional councils and interface councils. I have actually got the list in one of the documents, which I can give to the — —

The CHAIR — Leave it with the committee secretary.

Mr CHOW — Yes. It also has experts from the IAP2 profession and has representatives from LGV. We also invited MAV and VLGA. I can give you the full participant lists — —

The CHAIR — Yes, and again any minutes or learnings from those working groups — —

Mr CHOW — They are on our website.

The CHAIR — Great. Thank you. That is very good. In a separate set of evidence that has been provided to us concerning Murrindindi — Murrindindi, to be clear, was one of the municipalities you gave a very successful variation to.

Mr CHOW — A part approval.

The CHAIR — Yes, a part approval. Now, we have had evidence from Murrindindi shire, and we have also had evidence from individual councillors and ratepayer groups quite separately to that. I think there is a freedom of information request that was submitted to the Essential Services Commission.

Mr CHOW — That is correct.
The CHAIR — I am in possession of that freedom of information request, including the refusal dated 8 September, which has a series of documents listed. I am wondering whether you will provide these documents — these are documents 50 through to 69 — to the committee.

Dr HAMILL — I guess what we have — in terms of — —

The CHAIR — Suitably de-identified in terms of names.

Dr HAMILL — Yes, so that information that is in those documents relates to the free and frank advice that officials largely provide to commissioners in the decision-making process. So what we have released is the expert reports from EY, and they are now on our website.

The CHAIR — So this is not a freedom of information request now. It is a request from me to see those documents. There is a series of them here: background, impact and quantification of cost shifting to council, report on aged and disability service review, financial performance solutions report to LGV, review of roads and parks maintenance service levels, report on quarry service review. These are marked as confidential, but frankly they are very helpful to our committee, and we would appreciate those copies.

Dr HAMILL — I am happy to take that request on notice.

The CHAIR — I indicate it is not a freedom of information request.

Dr HAMILL — Yes, I understand.

The CHAIR — It is a clear request, and working documents are not necessarily in any way protected from a request in this format.

Mr MELHEM — What would your response be to concerns around an application fee that is alleged to have been estimated by the ESC official to Dr Hollows, who we heard from earlier. A figure was talked about around $25 000. Also, have you made any decision about fees to apply for a variation?

Dr HAMILL — The question of application fees is not really a matter for us; that would be a policy decision by the relevant minister and department, so we do not have a view on the benefits or otherwise of that at this stage. I understand that the $25 000 may be just a similar number to what is used by IPART. That is my understanding, but it is not kind of an official view that we have about anything.

Mr MELHEM — So if we are going to put in an application for variation, at this point in time no-one needs to pay a fee.

The CHAIR — No cost recovery.

Mr CHOW — We understand that is the case.

Dr HAMILL — That is correct, yes.

Mr MELHEM — So it was basically what Dr Hollows earlier was speculating, at some — —

Mr CHOW — Future date, yes.

Mr MELHEM — Yes, so it is not right now. You talked about the actual cost of putting in an application. I think in the paper you gave us you said that the cost should not be that significant to council to put in an application for variation, because it is part of their normal operating procedures and they basically should have all the information. One of the concerns in previous evidence was about the cost. Someone quoted $100 000; there were figures all over the place. I have got my own view on it, but what is your view on that?

Dr HAMILL — As I briefly indicated in my introductory notes, Mr Brown provided us with some specific data on that, when he asked the councils. So the data is all over the place, you are quite right, and most — eight out of the nine — councils indicated something within the range of $20 000 to $80 000 as the cost that they had estimated of putting in an application, and there was one outlier of $250 000.
Mr MELHEM — But what about with your expertise, from the commission’s point of view? I mean, do you think that cost that has been talked about is a realistic cost? Is it real or just people making figures up? How difficult is it to actually put in an application? If you go to council and prepare a budget basically for the following year, there is a five-year plan and you have got all your paperwork in order — so let us say [inaudible] very well as far as governance, you have got the right people doing your finances et cetera, so let us assume that is the case — for that council to put in an application for variation, are we talking about a lot of paperwork and a lot of resources required to do that, or should it be a straightforward application?

Mr CHOW — A good way of looking at it is with the nine councils who did apply and during the debriefing sessions what some of the feedback was. There was a case where a small rural council actually indicated the lowest in terms of the order that has been — —

Mr MELHEM — Yes, I saw that there.

Mr CHOW — Feedback to Mr Peter Brown’s report. The comment that was made was, because a lot of the information is already embedded in the current council systems — whether it is in the current plans, processes and practices — it actually does not take much more for management to compile it and develop a case to apply for a higher cap. But a number of other councils did indicate that they have to go through a fairly significant amount of learning to get to the stage where they understand the requirements and provide the case for a higher cap, and those councils tend to be in the region between the $30,000 to the $80,000. Obviously, as Dr Hamill has pointed out, there is one case where it is actually as high as $250,000. It also reflects that that council particularly has the ability to at least spend that amount of money on it.

Mr MELHEM — So on that point, and we went through the first round and Mr Brown’s review as well, and you have done your own reviews now, what sorts of things will you put in place now for the next round on educating the community, councils and stakeholders? What sort of engagement are you planning to put in place to make the systems much simpler and less — —

Mr CHOW — That is a very good question. So those who have been through the process obviously would be in a better position should they apply for the second round. Those who have not been in the process and have been watching the process closely and have been participating either in the working groups or in the workshops that they have been undertaking will be in a position to understand the requirements for the next application. The next year’s application is the first time where councils can apply for multiyear caps, so we obviously have to extend the information requirements. But they are all being spelt out, following very closely the experience of the first year. So the additional information that is needed for year 2, year 3 and year 4 is derived from what we call the council’s strategic resource plan. So it is an existing document, part of the existing process.

Mr MELHEM — Just one last question from me. The Chair did mention about the Murrindindi Shire Council, and we will have evidence from two councillors later on, and allegations were made that persons involved in the process — for example, when they put in the application for variation — stated confidentially that the 9.9 per cent was to outsmart the upcoming rate cap. That is some of the thinking in the Murrindindi shire, and they managed to get through a significant increase to their rate, even though the projection was they will have $23 million and their reserve. My understanding is that was brought to the attention of the ESC; I am not sure whether it was or did not. It is something I am actually alarmed, particularly when the CEO granted herself a 9 per cent increase immediately after the rate increase. Can you shed some light on that?

Mr CHOW — In the case of Murrindindi, they applied for a 5.4 per cent increase, which is 2.9 per cent higher than the minister’s cap of 2.5 per cent. The 2.9 per cent is made up of 1.8 per cent which is related to infrastructure needs and 1.1 per cent which is a reflection of the service needs. We did not approve the 1.1 per cent, but we approved the one that is related to infrastructure needs on the basis that it is actually based on their long-term financial plan and there had been expert reports provided by the council in claiming the funding need for future years.

The CHAIR — Just to be clear, I think Mr Melhem may have been referring in part to the previous year, when the council increased its rates significantly ahead of the imposition of the cap to kind of get it out of the stalls early, as it were.

Mr MELHEM — I think it was a bit of both. They did 10.5 per cent. Should the ESC not have looked into the previous years before granting them the increase? Again, if I look at the spreadsheet from the council here,
in 2015–16 they have got nearly $20 million in reserve and they will have nearly $24 million in reserve, to me it does not look right. Maybe that is something the ESC should look at into the future, and have a look at the council. To me it is just ripping people off — that is what I say — for the ratepayers of Murrindindi. I am not sure they are getting the services they deserve either.

Mr CHOW — I think I understand the concerns you raise, but the important thing to bear in mind is that we set the average cap, the average rates — the cap on the average rates, to be precise. In other words, the legislation is very clear in defining how that is calculated. Once it is calculated based on the information, it then allows the council to collect it over the year. We do not set a cap on the total revenue that comes from general rates; we set the cap on the average rate at the start of the year.

Mr MELHEM — That is something maybe we should look at; is that what you are saying? Should it be part of the review? To me, it does not make sense. Are you suggesting then maybe a review of how the formula is actually worked out?

Mr CHOW — Should there be a review? I think it goes to the broader question of what is in the legislation. It is not our call to initiate a review.

Ms DUNN — Just following on from that, your recommendation on how to calculate the rate cap varied from what actually ended up in the legislation in that I believe you had a wage price index as part of the formula as well. Is it still the commission’s view that that is a more appropriate mechanism in terms of setting a cap?

Mr CHOW — The cap is calculated excluding service rates and charges in those councils that actually have it outside of the general rates. We also allow councils who are thinking of separating it out to do so, and when they do that they have to do it on the basis that it is revenue neutral — in other words, it does not result in a windfall gain to the council when the council makes a change. So for the community and the ratepayers as a whole it is cap neutral. On that basis the calculation of the cap is still valid.

Ms DUNN — I am just wondering, just in relation to the questioning around lodgement fees for a variation: has the department ever sought the commission’s advice in relation to that?

Mr CHOW — I beg your pardon. In terms of what advice?

Ms DUNN — An application fee for a variation. Has the department ever asked the commission for any advice?

Mr CHOW — No. We have had no correspondence on that at all.

Ms DUNN — I note from your submission that some guidance materials were published yesterday. I am wondering if as part of those — I have not had an opportunity to have a look at them — there are templates and those sorts of materials available, just because it has come up often in the evidence provided to us around the usefulness of that.

Mr CHOW — We constantly review the usefulness of those templates. Let me just outline the thinking in developing the template. It is set at a very high level to allow councils to be able to demonstrate their service levels, the related revenue and cost impacts. That is actually reflective of their underlying budgetary process, so councils actually have that information at hand. It is designed at a high level on two grounds. One is that when councils apply for a higher cap they are able to demonstrate that the additional funding will be directed to either services impacts, infrastructure impacts or financial impacts. So it is actually useful from both the council’s perspective in seeking a higher cap as well as from our perspective in terms of assessing the merits of the higher cap application.

Ms DUNN — Lastly I am just wondering: does the commission have any views in relation to the upcoming council elections and the potential impact that the election of those new councillors may have on applications for a variation?

Mr CHOW — I think whether councils apply or do not apply is their prerogative to choose. What it does reveal is that, because of the four-yearly council elections, it actually compresses the time line even more so, namely that when the new councillors come in their involvement in framing the priorities and the directions of the council and the corporate plan and the strategic resource plan takes time. So they have got to come in first,
then they have got to understand the workings of their businesses — the councils — and then they have got to formulate the corporate plans.

With that in mind, that is why we are open to consider when Mr Peter Brown suggested an additional application date in September. In our view one of the scenarios is that when councils come in in November, they work with the management and get the processes in terms of the long-term financial planning and the community engagement in place. If they are in a position to do it by the end of June, which is a date which they often try to formulate to finalise their strategic resource plan, then they can choose whether to come to the commission to apply for the 2018–19 cap in September 2017 or March 2018.

**Mr DALLA-RIVA** — Thanks, gentlemen, for attending again. The evidence that we have been hearing over time has been the issue raised by either the councils themselves or by the councils’ and councillors’ representatives about complexity of the processes in the application. I think that is part of the concerns raised in the Brown report, and I understand that that is something that you have been trying to work through.

Today we had Rob Spence, the CEO of the MAV. I asked him in particular: if there was one thing you could ask the Essential Services Commission, what would it be? His response — and it is pretty much reflective of others — was, ‘Have more of the front end established, understand a simple proposition and try and limit the size of the applications and not make it within such a small time frame’. There are some of the things from the head of the MAV.

When I was going through here I thought this would be good. I was just going through and I was not trying to see what the betting odds were; I was actually going through your website. One of the things that concerns me is that the new guidelines are 80 pages — 80 pages! If I was to suggest to you that if you were to say to somebody, ‘Simplify your processes to make your guidelines easy’ — and we know there are six, the legislation is very easy, it is six — you have got guidelines there that are 80 pages long.

The first thing is, one, it tells me you have not listened. It tells me you have not listened to the concerns of councils, councillors, the broader concerns raised in our hearings and the broader concerns raised. It is as though you have continued on your own merry path to do an 80-page guideline. Admittedly the guidelines have a bit of waffle in them, as most bureaucratic guidelines do, but I would have thought that if the major concern the councils are telling us about the process of this is to simplify, you would not go down a significant process of 80 pages of guidelines.

Following on from that — and I will meld it with the other — I also went through the applications from the last process. Admittedly you have said that you want to refine it, but when I go through Ballarat, there were 9 forms of correspondence; Horsham shire, 10; Murrindindi, 7; Moorbol shire, 11; Wyndham shire, 6 correspondence; Buloke, 7; Pyrenees, 8; Towong, 10; and Casey, 9. Just having a look at some of those, there were quite detailed and complex applications, responses to concerns raised by the ESC. Then I have got rather detailed communication back and forth. And all the way along I am thinking this is costing councils an enormous amount of time.

**The CHAIR** — And ratepayers.

**Mr DALLA-RIVA** — And, by default, ratepayers. And I am thinking, ‘At one point does anyone consider the roads, the service delivery, the concerns of the ratepayers, the concerns of the councillors?’ It seems to be that the ESC — and take it whichever way you like — has created its own little fiendom of bureaucracy pyramids which are now forming and growing out of wherever you are based. To do what? I just cannot understand what you are doing. You are either helping councils and you are helping government policy — —

You have got 70 people already employed; you may as well employ another 100 and spend another decade on this. Just explain to me how this is meant to be more efficient when I have just argued what I have been reading on your own website, which tells me quite the opposite?

**Mr CHOW** — Could I respond?

**Mr DALLA-RIVA** — Please.

**Mr CHOW** — I am not taking a position on behalf of the government, but can I make the observation — —
Mr DALLA-RIVA — No, no. The government does not do the guidelines. You do the guidelines.

Mr CHOW — Yes, I understand.

Mr DALLA-RIVA — Do not put it on the government.

Mr CHOW — I will come to that in a minute.

Mr DALLA-RIVA — I am not on the government side.

Mr CHOW — I will come to that in a minute. You are talking about the broader government policy. I just want to make a general observation that out of the 79, 9 councils applied and had the decisions decided. The rest actually were keeping within the cap. So there is the first observation.

When you look at the guidance material — you mentioned about 80 pages, and I agree with you — but the chapter that is specific to applying for a higher cap is chapter 3. It goes from page 19 to page 54. Okay?

Mr DALLA-RIVA — I will have a look. Yes.

Mr CHOW — Thirdly, you said as you could see from the decisions that we have made, we actually take into account not just the mechanics and administrative requirements. We look at the councils which, like the Pyrenees, like Buloke, and in one case the application was only two pages. Did we take exception to that? No, we did not. We highlight where there have been gaps in terms of meeting those legislative requirements, but we do not on the basis of one factor reject the higher application. So in other words if you focus on the outcomes, some of the smaller councils will actually be able to secure a higher cap on the basis of who they are and what they are. They are councils which are faced with a large operating deficit, they are councils with huge infrastructure to maintain and they are councils sometimes with a shrinking rate base. Those are the councils which have indicated, and we are looking very carefully, as one of our key considerations, into their starting financial position. It forms the basis of whether on the balance of all the factors we approve or reject that application.

Mr DALLA-RIVA — Right, I understand. I will review that. Thank you.

The CHAIR — I thank the two of you for attending today. There will be some follow-up from the secretariat in terms of additional information and materials. We look forward to seeing the next outing, the essential services commissioner, here to join us in a little while.

Witnesses withdrew.