TRANSCRIPT

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into rate capping policy

Melbourne — 18 October 2016

Members

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Ms Samantha Dunn
Ms Harriet Shing — Deputy Chair
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Witnesses

Dr Andrew Hollows (affirmed), chief executive officer, Victorian Local Governance Association; and
Mr David Preiss (affirmed), chief executive officer, and
Ms Rebecca McKenzie (affirmed), vice-president, LGPro.
The CHAIR — I declare open the hearing on the impact of rate capping and welcome Dr Andrew Hollows from the Victorian Local Governance Association (VLGA), and David Preiss and Rebecca McKenzie from LGPro and indicate that evidence given here is protected by parliamentary privilege but evidence given outside is not. I also indicate that we will begin with an update of the impact of rate capping on councils and communities and then we will follow with some questions. Do you want to start off with LGPro or local governance?

Ms SHING — Maybe you can take a few minutes to make some opening remarks and then from there we can move to questions.

Ms McKenzie — Thank you, Chair. Just a few comments in relation to LGPro. The inquiry will have received our submission through the normal part of the process. Just reflecting now, given that we are coming up to 12 months post that process, with a couple of observations to update. I think it would be fair to say that it is commonly agreed by a number of senior officers across the sector that we represent that the impact of rate capping for larger councils will not be felt as quickly as it will be for some of our smaller rural counterparts. Having said that, a number of councils, large and small, across the state we know have undertaken service reviews to understand and address the impact of rate capping in coming years, and many have shed services or decreased service levels and staff.

Now, not all of it is negative. Of course a burning platform to drive greater efficiency, responsiveness and to have some pragmatic conversations with our communities regarding cost and choice of services has to some extent been welcomed. But in an ideal world the efficiencies that have been driven through this process would have been used to drive greater investment in infrastructure, and unfortunately in a rate capping environment that has not been able to happen. We believe that the impact on asset renewal and maintenance will increase exponentially over time, creating a substantial asset renewal gap in 5 to 10 years time that communities will be saddled with for many years to come.

Of course that impact is being felt far more sharply by our rural councils. I think the differences between rural councils and our metro counterparts in terms of disadvantage are reasonably well known but include things such as the lack of economies of scale; significant distances, which actually increase in very real terms the cost of delivering those services; the need to provide duplicate community infrastructure for geographically dispersed communities; the expansive road networks; the higher proportion of older residents; significant smaller population bases through which we can spread the rating burden; and of course the limited ability to raise fees and charges.

From LGPro’s perspective we are also concerned that budget cuts will, in the medium term, impact the capacity of the sector to perform in an increasingly complex and challenging environment and that we will be negatively affected as less than adequate funds are available for staff learning and development, organisational capacity building, system and process improvement and innovative initiatives that will need some element of initial investment for future financial gains.

Application and decision-making timelines from the Essential Services Commission and the minister’s annual announcement of the rate cap percentage are still of concern in terms of the period of time creating greater uncertainty and putting time pressure on the budget process, which incorporates, of course, the need for community consultation. We all want meaningful consultation with our communities and our communities are demanding it, but the time challenges of the annual cycle may constrain what can be achieved.

Applying to the ESC for a rate cap variation still remains unnecessarily complex and time consuming due to the lack of written advice and the standardised documentation and processes. We have, however, welcomed to the work done by Peter Brown and the response of the ESC, which came out yesterday, to the recommendations within his report. Then in addition to the considerable, time, effort and cost of applying for a rate cap variation, of course there are the new reporting burdens that have come into place, and without the removal of pre-existing reporting such as some of the grants commission annual reporting this is adding a considerable workload to councils. While we know that reducing the red tape burden and reporting burden was a commitment of the government, we are yet to see any significant reporting burden in real terms, so that is a bit of a watching brief for us.

Finally, from our perspective as the employee voice, a comment regarding local government wage inflation, because we are now well and truly into the new generation of enterprise agreement negotiations within the rate
capping environment: many of our current enterprise agreements are being negotiated in a region of 1 to 1.7 per cent per annum largely due to the introduction of rate capping. In the short to medium term we feel that this could prove to be a positive outcome, but in a competitive market of course the ability for each local government to be an employer of choice will be adversely affected if salaries lag behind other sectors. I guess only time will tell in relation to that.

We are aware of one rural council that is offering a starting position of a zero per cent wage increase in exchange for employment security. Metro municipalities continue to be at the higher end of the range, up to about 2.5 per cent per annum, but with an increasing trend towards shorter agreements of up to two years.

Dr HOLLOWS — Thank you, Chair, and thank you, committee, for the opportunity this afternoon. There have been many points made by my colleagues which I will reiterate but simply concur with, particularly with the initial impact of rate capping on communities and councils. I guess for the VLGA our starting point has always been and will always continue to be to get the balance right between the efficiency piece — good financial governance and efficient use of public resources — and just reminding ourselves of the democratic role of local government as that tier of government which best understands and expresses the interests of and preferences of its communities. I think that is a really important part for us because it was touched upon in the report by Peter Brown, noting that there were some concerns expressed around perhaps the undermining of some of the autonomy of local government. We would concur with that.

Certainly over the last period and certainly since the last time we appeared at this committee we have worked fairly intensely with all those nine councils who put in submissions to the Essential Services Commission and so have a very strong understanding of, and certainly heard and were privy to, their expressions of concern and interest around the whole process and the outcomes there as well. But it all comes back to us getting that balance right between the effective use of resources, which we would all concur with obviously, but also recognising and supporting and not unintentionally undermining the democratic role of councils.

As expressed by Rebecca, the impacts certainly on metro communities is too early to say, but that does not mean that there will not be an effect. It is like slowly entering a pond, or a cup of water slowly leaking. It will eventually go empty. So just because there is no effect now or there is no effect tomorrow does not mean there that there is not a process afoot which will eventually have an impact there. Clearly that is the case and will be increasingly the case in many rural shires over the forward period.

We note with interest the impact on infrastructure and maintenance of assets. Certainly in the report by Peter Brown, with which we concur, there needs to be some, I guess, agreed decision around how the asset renewal gap, for example, is estimated. We know there is a divergence of points here between, say, VAGO and the Essential Services Commission. We do note most importantly that infrastructure is actually quite a critical issue and, if nothing else, the release and the commentary last week in the report by Infrastructure Victoria would underscore that case 100 per cent — that local government is the critical provider and player in that space. Yes, in metro Melbourne but again doubly so in rural Victoria as well, particularly when it comes to roads and bridges.

The point around timing was raised before. We look with interest at the appetite for the government in the Essential Services Commission to have two application dates rather than one, and we would also support the conversation between councils seeking a variation around the pre-application process as well.

Debt still remains in the air, and I notice in the guidelines released yesterday by the Essential Services Commission that there was very strong language on page 27 that the commission is not advocating to the sector increased or reduced debt levels — and that is the judgement of councils.

The CHAIR — Sorry. Cave in to the sector to?

Dr HOLLOWS — Take on or reduce debt — and it is ‘the judgement of the councils’. We would concur. That has been our position from day one — that the use of debt is an issue of sound financial management and will be dealt with independently by each council based on its own needs and also the appetite or risk thereof of its local communities as well. So we are pleased to see that commentary in there, but I guess we still have an open question around the overarching view or preference that the Essential Services Commission may have about the capacity of councils to bear additional debt or not. I guess time will tell on that one.
Cost to councils of putting an application in: our figures that we developed independently from the report by Peter Brown are pretty similar in the overall cost figure there. Even if you take Casey out as an outlier, you are looking at an average of, what, about $30 000 to $40 000. Peter Brown at page 15:

The ongoing costs to councils should become negligible if they incorporate the higher rate cap application process into their normal annual corporate planning activities …

It is still a real cost. You cannot just define it out of existence or do a bit of a sort of a quick action there. If it is a cost, it is a cost. It is a resources use of councils’ and officers’ time, as Rebecca mentioned.

Also we do seek clarification about it from 2017 onwards. Will there be a lodgement fee for variations, and if so, how much will that fee be? Earlier conversations last year would suggest that an original speculative price — let us put it that way; it was speculative — was around at least $20 000 to $25 000. I would assume that the new councillors about to be elected this weekend would like to know what that cost for lodgement will be on top of the $30 000 or $40 000 on average.

Ms SHING — Sorry. You said $25 000.

Dr HOLLOWS — Per application was one speculation last year.

Ms SHING — For preparation of the application or for lodgement?

Dr HOLLOWS — No, no. Just the fee to lodge. So the sector is seeking clarification of that lodgement fee, which is a part of the arrangement.

The CHAIR — So is that in effect a cost recovery by the ESC?

Dr HOLLOWS — It is hard to know. I do recall — and I could be wrong — that in hearing evidence provided to this committee by Ron Ben-David from the Essential Services Commission it was not clear at that stage what the level of fee would be, who would collect it, would it be cost recovery and the like as well. That is all fine. We understand that these things need to be worked through. But we are getting to crunch point, where in probably the next six weeks, eight weeks maximum, the newly elected councils will be working with their CEOs around budgets, with the prospect perhaps of a variation process and what the new rate cap will be come December this year.

Ms SHING — Where do you get the $25 000 from?

Dr HOLLOWS — It was a speculative figure put around in terms of a comment of one ESC official.

Ms SHING — Sorry — would you care to put that on the record in relation to what that comment was? It sounds to me like there is no basis for that figure. I do not have any basis upon which to say that that is a reliable figure and you have just sort of put it in as evidence. What is the basis of it?

Dr HOLLOWS — It is my understanding that at one consultation in one of the early rural consultations by the Essential Services Commission the question was asked and posed to the Essential Services Commission, and they did — understandably with a range of caveats put around it — speculate on a figure of that order.

Mr MELHEM — So it is speculative.

Dr HOLLOWS — It is a speculative figure.

Ms SHING — In early consultations?

Dr HOLLOWS — Yes. I noted it was early and speculative, and that is the language that I am purposely and deliberately using for the committee. But nonetheless if it is in that order more or less, I guess that is something that the sector is quite keen to verify early in the piece.

Ms SHING — If you could just provide some detail of when that comment was provided and by whom and to whom and how, that would be useful if you could take that on notice.
Dr HOLLOWS — Yes. Service reviews: we do acknowledge that service reviews form part of the ongoing business of local government — no doubt about that. I am pleased to know that in the supplementary material provided in Peter Brown’s report a comment was noted of those councils interviewed that: ‘Councils continue to look for savings’. That is normal business of local government. So the regime of service reviews, the regime of looking for efficiencies, does continue.

But we do have some concerns looking at the application process and the determination process by the ESC for the nine councils recently. It was our sense on reading it, and certainly the feeling of many of those councils, that service reviews do not necessarily translate immediately into cost cutting or levels of savings. A service review is: does it meet the community expectations? Is it still fit for purpose? It could quite possibly increase. I guess we just sort of note that. It may be seen to be a technical point, but it is a very important point — that service reviews are not just necessarily cost-cutting exercises but about are services being more appropriate to communities.

I guess on the back of that we just wanted to conclude by making an observation around two studies underway by the Essential Services Commission at the moment, the first one being the productivity study, which we look forward to seeing the results on, and the growth areas study as well.

Let us start with the productivity study. Certainly identification of any forms of ongoing reforms and productivity in the sector is a position which the VLGA has supported from day one. From our early commentary around rate capping we have noted the need for the sector to take the lead in terms of looking at its unit costs, developing a cost intelligence, so that it is in a position to make reforms and changes where required. But again productivity is different from cost cutting or, as indicated by previous evidence, severely cutting wages and putting in jeopardy the long-term viability of the sector in terms of recruitment and retention of staff. So we do look forward to that productivity study, but we also do encourage the Essential Services Commission to fulsomely engage with the sector, including the peak bodies, in terms of that very important piece of work.

Likewise for the growth areas study we do acknowledge on the back of the negative determinations for Wyndham and Casey that there is a need to have a more in-depth understanding of the particular cost drivers and pressures of those growth areas, and we think that review is welcomed. Likewise we would strongly encourage, if it is not occurring, the intimate involvement of those councils and others who actually have on-the-ground knowledge of those cost drivers and the particular circumstances in those areas.

As the community would know, both Casey and Wyndham — because we work very closely with both — were concerned about the outcome of the determination and some of the way that the determination was met and the request for information beyond that. So we do encourage greater certainty this time through so that those growth area pressures are identified and again there is a clear and transparent process in terms of what are the terms of reference for that process, who is being involved and what sort of modelling and other pieces of work are being done, so those councils, who are quite sophisticated in their own financial analysis, can actually scrutinise those as well.

I guess my last comment is: we do acknowledge that there are a number of issues both in the guidelines and certainly in the independent report by Peter Brown, which flagged in some ways a placeholder in terms of a slightly broader and ongoing reform agenda for the local government sector. We agree with most and many of those issues. We do raise the point, however, that at the end of the day it is not the role of the regulator to lead sector reform. It is the role of the sector with its peak bodies, with Local Government Victoria, to achieve that.

So again it comes back to the principle of who does what and who has the required roles, and our strong view — and a strong view expressed by members — is that the ESC is the regulator, and I think even in the guidelines there is a nice quote, if I can dig it out, where the ESC actually defines its role quite clearly: ‘We assess applications for the higher cap and decide if they are appropriate’. Sector reform on productivity, growth areas, common charter of accounts and those other of issues raised in the Peter Brown report are important issues; there is no doubt about that. But these are not reform issues led by the regulatory body.

Ms SHING — Is that not part, though, of the assessment process for applications, taking those matters into consideration?

Dr HOLLOWS — I think taking those matters into consideration, yes, but there is an initial piece of work that needs to be done with the sector about getting into that situation in the first place, and we are quite mindful
that there is a number of factors that have already been indicated through the review of the Local Government Act which will of course come into effect in the next two or three years, and many councils will be working towards that — —

**The CHAIR** — I just want to be clear, picking up the deputy’s question: you are saying it is a role for Local Government Victoria to — —

**Dr HOLLOWS** — Working with councils and sectors — sector peaks.

**Ms SHING** — But those things necessarily form a relevant set of considerations for the ESC in determining the applications that are before it.

**Dr HOLLOWS** — I believe so, yes.

**Ms SHING** — Yes, okay.

**Dr HOLLOWS** — But getting to that stage in terms of those reforms occurring and those inquiries being led, we would argue that they are best led by Local Government Victoria rather than the Essential Services Commission.

**The CHAIR** — I thank both organisations for your submission. If I just begin to get clear on the record here, what I understand you are saying about the Brown review is that it is useful and it cleans up some of the more absurd aspects of the process of variation and so forth. There are a couple of other worthy things that are in there for recommendations, but it — —

**Ms SHING** — Not to be too positional with use of words like ‘absurd’ though, Chair.

**The CHAIR** — Well, I think we have evidence to that effect.

**Ms SHING** — Well, you know, you are putting words in the mouths of the witnesses. You might well put it to them in relation to how they would describe the Brown report than as commentary.

**The CHAIR** — I know, but my key point is that in fact this ultimately does not change the fundamental issue of the complexity of applying for variations, the cost of applying for variations, the council time and the fact that councils are dissuaded from applying for variations. Is that a fair summary in general?

**Ms SHING** — Maybe you could just give us what you think is the fair summary from that side, without being led perhaps.

**Ms McKENZIE** — Perhaps I could offer, Chair, that I think when the process was implemented, it was clear right from the beginning that it would be reviewed in the first year, after the first year of operation. I think that the Brown report has been very helpful in reviewing both the process as well as some of the issues that have arisen through implementation. There remain some considerations that the sector has, particularly in terms of the complexity of the process et cetera, which have not necessarily been resolved through the Brown review. The Brown review has clarified what some of those points of complexity are, and the ESC has responded in some way. So I think we are still at the beginning of what potentially could be quite a long journey with this process, and I would expect that it would continue to need to be tweaked around the edges as we all experience it in different ways.

The first year of the process was slightly unusual in many ways anyway because it was a revaluation year, it was the first time we were all trying it out and councils could only apply for a one-year variation. We are now entering into a new cycle. So equally like we have gone through a review now, it would be helpful to do a further review in another year’s time when we have actually looked at it in the context of a four-year new council full planning cycle.

**Dr HOLLOWS** — Just for the record, we would note that it is very useful having the review by Peter Brown, and I think it has certainly highlighted a number of, I guess, issues — good and less good. So I go on the public record to acknowledge that. But in some ways we are going into new territory in the sense that a new councillor group is going to need to make some serious decisions very soon about the opportunities or not of a four-year variation as well. But that process looks like the intensity of the process. There is still a real cost to be
incurred by councils in terms of doing the process and yet the ambiguity, I guess, at this stage around the lodgement fee as well.

I guess time will tell how that pans out, and I concur with Rebecca: if there is an opportunity that those issues can be reviewed just to see particularly what the four-year variation cycle looks like, it would be highly productive, and certainly by that time we would perhaps have a better sense of if there are any other implications on services and most importantly any implications on infrastructure and asset renewal.

The CHAIR — Rebecca, you mentioned an asset renewal gap. Has your organisation done some calculations on the scale of that?

Ms McKENZIE — My own organisation has, or do you mean LGPro, Chair?

The CHAIR — LGPro or — —

Ms McKENZIE — In terms of LGPro, no, we have not been able to get that information because that has not been our primary focus, because our primary focus is as an employer-based organisation, an employee-based organisation. My understanding is that the MAV have surveyed all councils for information in that regard, and I think that they are providing evidence to this inquiry, so they can probably respond.

The CHAIR — I also want to just talk about the new regional partnerships and metro partnerships arrangements. I would be interested in your views of how this will operate, particularly the Victorian Local Governance Association, because of your history. I will put on the record my quiet concern about how this may play out, but it seems to me they have a fundamentally anti-democratic structure.

Ms SHING — So you know the Chair’s position from a personal perspective.

The CHAIR — No, I am just — —

Dr HOLLOWS — I guess like all these arrangements we would encourage the sector and our members to obviously to participate with goodwill and good intent. Partnering is always in principle a positive activity there. I guess from a governance perspective, our issue would always be around two fundamental issues. One is: what is the role or influence that elected councillors have in that process? We know from other circumstances from time to time there may be more of an emphasis on — no disrespect — CEOs and staff, as opposed to elected councillors. So if you want to underscore that first principle I started my testimony with, just to make sure that there is an adherence and an acknowledge of the role of elected councillors as well in that process.

The other part of it of course is that — be it in terms of delivery of services across this state or be it in terms of infrastructure and beyond — local government is an important partner and player in this, and if they are going to be a partner, then they need to be an equal partner. I guess time will tell in terms of seeing how the process unfolds, and we will obviously get feedback — good, bad or indifferent — from member councils in terms of how well that is proceeding. So I think just let us keep an open mind about it but be mindful that councils do have a unique role to play there and that they do have elected councillors and they need to be part of that process as well.

Ms McKENZIE — Chair, I think it would be fair to say that our membership has so far informally expressed some concerns at the exclusion of our elected members from the process. The other point of clarification that our members are seeking will be around the ex officio nature of the appointments of the CEOs to the regional partnership and exactly what that means in terms of our voting rights and representation in terms of that governance structure.

The CHAIR — I have a final question back to the Brown review, and it has obviously some useful things going forward. What other areas do you see for reform that are not covered by the Brown review? Aside from ditching rate capping? Some would hold that view, but that is not the world that we are in just at this point. The point we are in here is: what reforms can be made beyond that?

Ms McKENZIE — While you are thinking, I think the Brown had a very defined set of parameters and a very defined scope, which was actually around the application process and the engagement of the Essential Services Commission with local government bodies.
The CHAIR — As I read it, it probably stretches its elbows even wider than its terms, but nonetheless.

Ms McKENZIE — Whereas I think what you have heard from us today is that there are some other areas that will be important to monitor on an ongoing basis which are likely to have a long tail or a slow burn as opposed to being issues of immediacy. That will be about the impact on the asset renewal gap, that will be about the impact on services and that will be about the impact on jobs, employment, wages and those sorts of things, and that will take a longer period of time to actually realise.

In terms of shorter term issues, there are issues such as things like the reporting burden, the assessment of how productivity is measured and those sorts of things which will also need to be reviewed in some way, and they were not necessarily part of the Brown review either. So from our perspective I think we would like to see those things explored as well.

The CHAIR — So I guess what I am saying here is that I am opening the way for us to look at any reforms that you suggest would be practical and achievable, and this would be a good venue, now or as follow-up, to add them.

Dr HOLLOWS — I take from the Brown review, and I refer to page 11, that the critical issue — and it has been one which the VLGA has pursued for quite a while — is around councils or the local government sector having a, I guess, deeper understanding of, one, the range of services it provides and having that sort of deeper cross-intelligence around the provision of those services. Now that has been of interest for the VLGA through the lens of, I guess, sound financial governance, and our view is that that is something which needs to be led by the sector. Certainly we have been having those discussions with member councils and with Local Government Victoria for some time.

Why do I highlight it? I guess in some ways I am pleased there is a version of that expressed in the Brown report, although we might quibble over some of the language being used. It is ultimately — be it around productivity, be it around growth areas, be it around the rate capping variations, be it around shared services and so on and so forth — that any sector needs to have a good understanding of the business and the cross-intelligence around that, and getting some uniformity around determining unit costs and the like we think would be a positive way forward.

But there is a proactive and a reactive way of doing it. The reactive way is just to impose it upon the sector, and that will not work. A more proactive way is to encourage the reform processes — already afoot in many parts of the sector anyway — of achieving that. By doing that, it just links into the democratic process of officers having those conversations with their councillors, and it fits in the broader piece in terms of the conversations that councils already have and will continue to have around longer term community planning and the like.

I would just like to flag for the record that any conversation, be it through here or through another entity, around I guess those more broader reform agendas does need to be mindful and not work at cross purposes of the intentions of the review of the Local Government Act. There are issues in there around longer term community planning, the link to the council plan, the integrated financial planning and so on and so forth, which we as an association advocated for and will continue to do. It goes back to my comment before around who is doing what, who is leading what, in terms of process there. Again, our strong view is that there is a bit of a road map there of sorts being flagged already for Local Government Victoria through the act review, and we just want to ensure that the data collection and the intentions and the other work being done by the Essential Services Commission and other bodies does not cut across that broader reform work there.

The CHAIR — Does not duplicate it.

Dr HOLLOWS — Correct.

Mr PREISS — If I may, I would just like to reinforce the point that Rebecca made before. With the introduction of rate capping and the desire for greater efficiency from local government, we have had an increase in the burden of reporting. The data that the ESC is seeking is time consuming, and it replicates data provided to other bodies in variations of the same information. Perhaps there should be some thought given to the role of government in terms of state government and how it can support the development of reporting so that local government gets to do it once and well rather than multiple times and using precious resources to no benefit to their communities.
The CHAIR — We will take that on board.

Ms SHING — Thank you, everyone, for coming back to provide further information and views in relation to the Brown report and the bedding down of the variation process. Just to pick you up, Mr Preiss, on what you have just indicated around duplication and a burden of reporting around the gathering of information and data that is necessary, is that not the case with any sort of change that occurs around governance, reporting and management — that often areas of duplication will be determined around the first cycle and then subsequently bed themselves down? I note that we have had a number of changes to grants and other application processes at a state and federal level and that they have been streamlined over time. Is there any capacity for further efficiencies to be developed from within your member councils around actually making it a more efficient process? Rebecca?

Ms McKENZIE — I think that it is a combination of two things. It is about the data that is being sought and from whom and enabling, because quite often, as David was reflecting, similar data, but cut or sliced and diced in slightly different ways, is being asked for by different agencies. So part is about getting the agencies who are requesting the data together and lining up to say, ‘Actually, if we measure this in this way, will that be acceptable to you?’. The other part, then, is about the efficiency of the internal administrative processes in actually gathering and reporting the data. Of course, yes, that is a matter for the sector, but it is also a matter for the sector in partnership with Local Government Victoria as our sort of key agency, particularly since the introduction of the local government performance reporting framework, which does bring an element of standardisation.

I think part of the quid pro quo that was sold to the sector at the time of the introduction of rate capping and around the introduction of the LGPRF — the local government performance reporting framework — was about the fact that government would take a lead in ensuring that the reporting burden on the sector was reduced, streamlined and eliminated where it possibly could. We have done all of the early work. We have not seen that realised yet. So I think we are keen to make sure that the pressure is kept on to see that delivered.

Ms SHING — But it would stand to reason, would it not, that where there is a process of review, not just within the act, not just within the performance framework but more generally around the way in which savings can be generated and efficiencies can be realised, the way in which information is sought and categorised internally from within a specific organisation’s perspective is in fact done better. That is part of continuous improvement for any organisation, is it not?

Ms McKENZIE — Yes.

Ms SHING — Okay, great. I would like to pick you up, Dr Hollows, on a number of things that you talked about in the context of the variation process, and I am looking forward to getting that speculative cost item that you referred to as coming from an ESC official. When you presented to us in March around the question of variations, to quote you back at yourself, you said:

If nothing else, the disappointment in the sector was that the capacity for flexibility was not exercised.

Just to flesh that out a little bit, knowing what we know now about the number of councils that put in applications, the number that were unsuccessful and the number that got what they wanted, would you have supported higher caps for groups of councils — either that made applications or that did not — and if so, which higher caps would you have supported?

Dr HOLLOWS — Thank you; it is a good question. Let us start with the disappointment. The disappointment was that three of the nine councils that put in who were unsuccessful represented half a million Victorian residents. We are talking about two growth areas, Wyndham and Casey, and we are talking about Ballarat, which also has its own unique growth pressures, and that was actually a part of their application in terms of meeting that. I guess our observation is that there is a risk of saying, ‘Look, six got up; three didn’t. That’s okay — that’s a good strike rate’, but that strike rate was actually quite abysmal for those 500 000 residents.

In terms of clusters or groups of councils in terms of different rate caps, to be honest I could probably argue the case both ways if I had to. I see and hear the argument that there needs to be a single cap as determined by the minister and therefore the onus is on individual councils to demonstrate particular circumstances. I can certainly
understand that, and that is why I take some encouragement from the work of the ESC around the growth areas that there would be, I guess, a more nuanced understanding of the particular circumstances and what the assessment determination process for those councils will look like. If you do level A for this group of councils and level B for another group of councils, then you get caught up in the politics of the differential and the rationale behind that, and at the end of the day it comes to quite a — —

Ms SHING — Orwellian, perhaps — we are all equal, it is just that some of us are more equal than others.

Ms McKENZIE — How long is a piece of string? Yes. I guess sitting behind your question, perhaps, is a broader issue. It is no secret. In our evidence previously I guess we were concerned about particularly the hoops and the hurdles that rural councils had to go through in terms of a variation, where everyone knew what their financial circumstances were. There was no need to reiterate and reinforce their quite parlous circumstances, not because of bad administration but just systemically where they sit in terms of population decrease, impacts in terms of the indexation, the financial assistance grants — I can go on. I guess our view would be that if the current system proceeds with one rate cap applied to all councils, then it puts more onus on the flexibility that needs to be demonstrated by the Essential Services Commission when making determinations. That is very clear from the outset, though I guess part of the disappointment expressed to us certainly by Casey was that they felt that the rules seemed to be moving a little bit during the application process. I am sure ESC, who will be presenting shortly, will probably talk to that. But I guess if we need to make a determination, we would probably concur that it would need to be one rate cap.

Ms SHING — On that basis — and just noting that you referred to 500 000 ratepayers — council elections are upon us. It is an unusual time in terms of the very outward facing approach the candidates take to their views on certain things. I would just like to put to you the tension between, on the one hand, the need for councils to provide services and good communication and consultation, that end of it, and the other end of it, which is that there are candidates who are actively promoting a freeze on any rate cap increase, which in effect is something which they see as a very positive reflection of community expectations. I would just like to get your views on that in the context of how elected representatives do their jobs when for a number of candidates in a very public way this is in fact a key priority for them, and a number of them have previously served in elected roles and a number have not. But how do we reconcile the tension between community expectations — and a number of councils did not consult before they made a decision not to seek a variation, for example — and on the other hand the notion of needing to actually provide those services and programs into the future?

Dr HOLLOWS — The joys of democracy, I would have thought.

Ms SHING — The Chair has indicated he has views about a lack of democracy in the regional partnerships framework, so it is good to get your views.

Dr HOLLOWS — What I mean by that is that it was always and continues to be our view that each individual councillor will make his own decisions in consultation ideally with his communities around yea or nay for rate cap variation and where you want to set the rate. That is the fundamental principle of local democratic decision-making and one that we will always stand by. That does not rule it out. The fact, however, is that there is also a financial reality which councils operate in, and it is a broader reality in terms of rates and charges and grants and circumstances and changes for those communities as well. There is an onus on elected councillors and the council generally in terms of providing sound financial governance but also ensuring and meeting their remit in terms of understanding and expressing the preferences of their local communities.

We do a lot of pre-election training, so we were privy to a lot of the statements made by many candidates. I know those statements were all made in good faith and with good intent. But when you sit down and you think, ‘Yes, we will maintain or increase services, but we will not seek a rate cap variation or even lower rates below the CPI’, you just know that something somewhere has to give on that. I am sure that for many of the newly elected councillors in the next few weeks when they have their first briefings and go into the planning cycle, there will probably be a little bit of a reality check then in terms of what is doable in their financial circumstances.

Mr PREISS — Can I just make a point?

Ms SHING — Yes, of course, Mr Preiss.
Mr PREISS — Because we use the term councillor, I think we sometimes overlook the fact that these people are local politicians and, like any politician, they would be brave to actually campaign on the basis of increasing taxes. So what they say during the campaign period is politicians campaigning and it should be taken as that, rather than assuming you have got a group of people who have got particular views about the way the sector is funded.

Ms SHING — It sounds as though we are getting into the territory of core versus non-core in relation to what might be said before an election and what might be delivered after it. On that basis, I would just like to touch on the savings that might be generated around council work to use a best-and-final-offer process in tenders. That was in fact one of the things that I put to the CEO of Port Phillip earlier in hearings this year around an open tender process. I had asked Ms Slatter of the Port Phillip council whether there was an open tender process at any point in relation to procurement. She indicated as follows:

Yes, so all of our processes comply with the Local Government Act and our own internal policies. The best and final offer is a reasonably common commercial practice. It is not as common in local government but we have introduced it to just make sure that even though we have got the price of the final operator that you are dealing with but you do not necessarily accept their final price until you have asked them to come back with a best and final offer. It is a standard commercial practice.

Have you seen any of your members adopt that standard commercial practice in seeking to realise savings to perhaps ameliorate the effects of rate capping?

Ms McKENZIE — No, I have not specifically. I would have to say that at the moment many of our procurement processes would probably work against that in any detailed way.

Ms SHING — How so?

Ms McKENZIE — Just in terms of the rules framework that has been placed around from a policy perspective, we would not go back once somebody was already at the point of being a preferred tenderer for a further price check providing that the proposal that they had put forward, the tender that they had put forward, had been measured on a fair and equitable basis according to the criteria that had been set et cetera. We would not normally then go back to them again for a further price reduction.

Ms SHING — Is there any reason why that could not happen, though, in your view? You might like to get back to us. If you want to take it on notice — —

Ms McKENZIE — Yes. I am not certain if legislatively there is anything that would preclude that, but it is certainly not part of custom and practice in terms of my understanding of local government procurement practice.

Ms SHING — So as far as whether that is in fact something that is able to be done in the way that Port Phillip has indicated they have done it and done it successfully to realise savings, if you could perhaps just take that on notice. And if you would like to provide any views on BAFOs more generally, that would be great. Thank you.

Ms McKENZIE — Happy to.

Mr MELHEM — Mr Preiss, you said something about the local councillors who actually ran a campaign supportive of rate capping, and you said, ‘But you shouldn’t take any notice of them’. Why should we take notice of you as an unelected person saying rate capping is a bad thing? I mean, one minute we would say we should respect the local community, the local representative, about their view, and now you are saying we should not because they are just a bunch of politicians making commitments. We can debate whether you are right or wrong. Is that not a conflicting — —

Mr PREISS — Just to clarify, what I was saying was that politicians have a right to campaign, and it would be most unusual for a politician to campaign on increased taxes. If it is the genuine will of the community and they are making an informed decision about the level of tax and the level of service, it is an absolute right of the community and it cannot be compromised.

Mr MELHEM — You have got to accept that the community generally support the rate capping. I mean, if you do a survey, no-one will actually — —
Mr PREISS — And I think we could equally support that the Victorian community and the Australian community would like to have decreased taxation.

Mr MELHEM — We agree on that. So if someone campaigned that that is what they were going to do, you expect them to keep their word et cetera.

Mr PREISS — A campaign occurs before a politician takes up their role as an elected representative. I am sure that all politicians, once elected, are exposed to information and situations that they may not have thought about when they were campaigning. They are entitled to make informed decisions based on the best information available, and that may change after the point of election.

Mr MELHEM — With the rate capping, we are trying to encourage councils to be more efficient. I mean, there is nothing wrong with that. There is nothing wrong with councils running an efficient business, like any business, any companies. Council is a service provider. Energy companies, they are service providers; telcos, they are service providers. Their main aim is to provide good service at the lowest possible price, and councils are no different. Do you agree with that? Anyone, really.

Mr PREISS — I think the short answer to that is no. Councils are not service providers. They are a level of government whose services are about the engagement with the community as part of the democratic process. To identify them as simply service providers I think is inaccurate.

The CHAIR — Sells them short.

Mr MELHEM — Well, they are, because as a ratepayer, I expect my council to provide services for a fee I pay to council, which is the rates. It is a service provider. What are they? You are just basically saying to me, then, councillors and councils can charge whatever they like, the way they see fit, without necessarily looking at their productivity and efficiency, and taxpayers will have to cop it. Is that what you are saying to me?

Ms McKENZIE — Perhaps I could provide some clarification because I think we are vigorously agreeing in many ways on certain aspects.

Mr MELHEM — I thought we were, but anyway.

Ms McKENZIE — Yes, because councils do provide services. That is one aspect of the work that council does. We do that in response to demands of the community, in terms of what the community needs as well as what the community chooses to pay for, to a certain extent. But rates are not directly a service charge. Rates are actually a tax, the distribution of which is based on the value of a person’s property. So rates are effectively a wealth tax. The revenue that councils generate through rates is then used to offset the cost of providing services to the community.

Mr MELHEM — I am sorry; let us agree to disagree, because whether the income is generated by council through just rates and various other grants from various governments, if you put all that together it comes out from one source, which is, as far as I am concerned, taxpayers — basically, a pool of money put in there for that organisation to provide services to the community. It is not different from state governments. As far as I am concerned, the state government is a service provider to the people of Victoria. So that is the way I look at it, and that I think may be part of the problem. Some councils are not looking at their citizens as customers and that they are there to provide services to them. That is where the argument has been about rate capping. But anyway, we are not going to resolve that.

Now, what suggestions would you have to change the current policy? I know there was the Brown review, which I think has done some good things, and you did talk about maybe in a year or so doing another review. But right now, because I do not think you are going to change the government’s position about rate capping, what sort of changes would you recommend to the current system? One is to sort of maintain the rate capping as such, because people want that, but in the meantime let us put certain councils in a position where they find themselves not able to provide the services people deserve. Where do you find the balance from your point of view?

Ms McKENZIE — I think the issue of local government sustainability and local government finance is a far greater conversation than just rate capping. Rate capping is one element of a complex puzzle of different sources of funding that actually help to make a council sustainable. Part of it is also the debate about what
services are provided at local government level, what services are provided by the state, what services are provided federally as well. So it is not just about the rate capping policy. That is just one little element of it. Rate capping has brought with it some benefits, as you rightly said, in terms of bringing a focus around efficiency and reform of the sector, and we welcome that as much as you do. What we are concerned about, though, is the long-term impact in terms of the financial sustainability of the sector if it is not taken in the context of all of those other issues. So we could have equally a debate about grant funding, cost shifting and those sorts of things, which if we can fix some of those, actually rate capping does not become such an issue of debate. So we would welcome the conversation to be broadened in a way that we can actually together with all tiers of government work on the sustainability of all levels of government and the sustainability of our sector.

Mr PREISS — Can I just add something to that, and I completely agree with what Rebecca has just said, but I think that it would be worthwhile following the Local Government Act review, which is an initiative that we welcome and think is absolutely critical, that the need and the shape of this particular policy in terms of rate capping should be reviewed then, because it does not sit by itself. It sits in the context of the role of local government, and that is being addressed, as it should be, through the Local Government Act review.

Dr HOLLOWS — If I can just add, the — —

The CHAIR — I am just conscious of time.

Dr HOLLOWS — Yes, I will be brief. The issue of financial sustainability, as we know, is particularly pertinent for rural councils. Their revenue mix is quite different in terms of rates, grants and the like, and more at risk from, I suppose, the variability of grant funding from both state and federal government as well. A couple of these councils reluctantly put in a rate capping variation and were successful but certainly in our conversations with them were quite concerned about the impost that will be on their residents. But they had nowhere to go. They were between a rock and a hard place in terms of doing that.

There is a broader issue here which I think we are particularly interested in, which is: at the end of the day, if you look at this through the lens of the resident and the ratepayer and the community on the ground, most of them do not care if it comes from local government, state government or federal government — and usually do not make that distinction in terms of services — but what they want, particularly in the rural communities, is at least some guaranteed minimum levels of service out there as well. What has been a concern for us is that a discussion around financial sustainability of councils in some ways is a placeholder for a much more important discussion, which is around the viability of many of our rural communities, ensuring that those communities regardless of who the service provider is actually have access to a range of core services that all residents across Victoria should have access to.

And lastly, yes, we agree with the efficiency productivity piece, the growth area review and the like, but, gee, at the end of the day I reckon we could have constructed a process around efficiencies in the local government sector without necessarily using the blunt instrument of rate capping.

Ms DUNN — Thank you, everyone, for your submissions today. It seems, in listening to your contributions, the Brown review is generally welcomed. And Rebecca, I think you talked about some complexity of processes still unresolved and that there were also issues around the reporting burden and the way productivity is measured as part of the application for a variation. If you could design it and make it as user friendly as possible, what would you see change and what would that process look like? Not have it? But set that aside, as that is not an option.

Ms McKENZIE — I think there were a number of suggestions that were made in the Brown report which were helpful suggestions in terms of whether there was capacity for templates, guides, previous examples to be shared — all of those sorts of things I think would be beneficial. I think it was interesting that the Essential Services Commission has accepted only some of those in part, and I think it will be interesting to see how that plays out over the next little period of time. Unlike Andrew, I think that potentially there would still be capacity to consider some of those extraordinary circumstances that we know are impacting and affecting certain groups or classes of council. My personal view is that I still do think that there is some merit in consideration of a variable cap depending upon the nature of the category of council, particularly, for example, for growth councils where we know there are significant gaps in the need for new community infrastructure and the way in which the rating burden for paying for that needs to occur over a much longer period of time, and things like that.
Ms McKENZIE — But I have not got a magic wand for a perfect system, and perhaps nobody does. Otherwise we might have come up with it by now.

Ms DUNN — That is fair comment. In relation to the local government performance reporting framework, I am interested in your views as to whether that should be the standard reporting piece that local governments prepare every year, and from that every other agency or whoever you are pulls the information from that one set of data. Is that a way forward, and would that mean that that reporting framework may well need a bit of tinkering around the edges to get it in the right shape so everyone can use just one dataset?

Ms McKENZIE — I think that was the original intention.

Ms DUNN — Yes, I seem to recall that was the original intention.

Ms McKENZIE — I think the feasibility of achieving it has become a little more complex. Andrew, I do not know if you are more closely — —

Dr HOLLOWS — I guess, you know, in some ways we are talking about the Holy Grail of datasets that sort of do everything. That is a caveat there. I do also note that on both pages 9 and 10 of the Brown report there was an acknowledgement around better coordination or at least similar data that has been collected once rather than multiple times. In the ideal world you would have a situation where there is a common-sense assumption that whatever the new gee-whiz dataset looks like that all and sundry, including the Essential Services Commission, will have access to that — the grants commission data, VAGO and the like. So there is already an assumption that if you put a variation application in, you do not need to duplicate that stuff. It is out there, it will be used, has been used and will be used by the Essential Services Commission in any determination. So what does that mean? It therefore means that the application process focuses on the particular circumstances of the variation rather than providing grounds of everything just in case.

I think also, it did occur in part this time but was certainly picked up in the Brown report. What we will be encouraging our members is if you are seeking a variation, and if the EEC is open to it, having a lot of pre-application discussions on the way through would make perfect sense as well. Is this on the mark? Is this what you are looking for? Is this consistent? Because I think on a template you can always try to second-guess everything, and I know in New South Wales they do have a template which seems to work reasonably well, but I think the intentions in the Victorian approach is to allow some degree of flexibility in the process.

Ms DUNN — In terms of the upcoming local government elections we are going to see new councillors being elected, I am sure. We do every election. Do you think having those new councillors in the mix will impact on councils’ decision-making about whether to apply for a variation in this upcoming round of variation applications?

Dr HOLLOWS — I will start first if that is okay.

Ms DUNN — Go for it.

Dr HOLLOWS — The straight answer is probably yes, and I guess I am basing that on the fact that you have got a lot of new councillors sitting in the chamber, and we know based on the 2012 statewide average changeover in terms of councillors was about 50 per cent. That would be highly variable across municipalities. In all fairness to many of those new councillors, they will be elected, they will have their ‘Oh my God, I got elected’ moment, then straight into it — learning the meeting procedures and the like. The time line which we saw was really tight the first time around would also apply in this case, and that is why we have some sympathy for at least the two application dates that will allow councillors to get into the swing of the process in terms of the role so they can make a more informed decision, as they should do as an elected representative, to pursue a variation or not.

I am assuming that the time frame this time around will be equally tight, and bear in mind what is at stake. What is at stake is the opportunity, if a council sort of determines, for the multi-year variation, so they are able to make an informed decision in such a short time frame and to consult. I know the election process is a form of consultation, but I guess for the more traditional forms of consultation the time frame is going to be tight.

Ms McKENZIE — Yes, I would just agree that the bringing together of the strategic resourcing plan, the capital works program, the council plan and newly elected councillors’ legacy desires together provide a
strategic framework at least for a council to consider whether a variation is going to be right for them and their community. I think that there will be more serious consideration of rate cap variations given at this point in time. Whether or not that will end up in a greater number of applications or not, I do not know.

Ms DUNN — That is fair enough. My last question is to Rebecca. You talked about I guess those slow-burn issues that will need to continue to be monitored in relation to employment, infrastructure and services. I just wondering do you have any views in relation to who is the most appropriate person to do that? Is it an Auditor-General-type role? Where should that sit because they are very important issues to communities?

Ms McKENZIE — Certainly I think that VAGO has done some good work in this area previously and would be able to rely on some of that previous work in order to actually benchmark whether or not there has been a shift over time, particularly when it comes to the areas of asset renewal and the asset renewal gap. So I think in that respect VAGO is an effective measure. It just depends on what some of the other indicators might be. If we are looking at measuring social impact, for example, VAGO might not necessarily be the most appropriate measure.

Ms DUNN — Great. Thank you.

Ms BATH — Rebecca, you mentioned it earlier on, and again just now you were talking about rural councils and some of the disadvantages that they face in terms of just the pure geography, the duplication of services and a whole raft of things. My question relates to the loss of the country roads and bridges program, which was a steady income source. How have your professionals coped with that, and how is the ESC, do you think, taking this into account?

Ms McKENZIE — The way that councils have dealt with it is that really they have just had to cut their cloth and look at other funding mechanisms for filling the gap that has been created through the gap in country roads and bridges. Certainly I know my previous municipality just had to not do a number of things that they might have normally done.

In terms of the Essential Services Commission, of course they will have considered as part of their total frame of measures what grant funding councils were receiving and all of those sorts of things, but I do not think that that has been a primary consideration of theirs. Certainly from my understanding, their primary consideration has been around an individual council’s own general financial sustainability and what the council has been doing in terms of considering whether there are opportunities to leverage debt more or look for greater efficiencies or reprioritise its capital works program or those sorts of things, rather than specifically looking at a reduction in an external grant funding source which perhaps had never been guaranteed.

Dr HOLLOWS — As I mentioned previously to the committee, particularly with the rural councils, the reliance on grants was always fraught — and a grant is a grant. It is bestowed by another level of government onto a municipality, typically for a finite period of time, and a withdrawal in part or full of that grant obviously has major problems, and doubly so for rural councils whose avenues for other forms of income generation is marginal, in terms of fees and charges, rate rises and the like as well.

This issue of roads, and particularly the roads in the shared responsibility of councils with their roads and the state government more broadly with the broader road system, has come up time and time again in our conversations through the local government reference group with Infrastructure Victoria. It has been raised as quite a serious concern in terms of the ability to support rural productivity and the farming sector with getting goods to ports and the like. The fact is that if you are talking about a burning platform issue, the burning platform issue in rural areas is upgrade and maintenance of those roads which are the state government’s responsibilities, because you do not want to have silly scenarios of freight going down other roads less amenable to the size of the trucks. It provides an additional cost burden to those councils in terms of wear and tear of those roads within limited financial circumstances.

I cannot remember which municipality it was, but there was an example where freight operators were doing that. They had to do a 30 or 40-minute detour because there were certain bridges they could not use because of the load bearing. It is like all things in life; the ripple in the pond here is that cuts in grants or reduction in grants or the cost constraints around rate capping sometimes have quite perverse and unintended consequences. Certainly road infrastructure and cuts in grants funding is certainly problematic.
Ms BATH — Roads certainly are the lifeblood of rural communities.

Mr EIDEH — I was also going to ask about the Brown’s report and its recommendations. You already answered it, but do you want to add any other comments to that?

Dr HOLLOWS — Look, as I said, we were quite pleased there was an independent review undertaken. Certainly the VLGA had asked for that and had brought our concerns and the need for an independent review to Minister Hutchins, so we were pleased that an independent review was undertaken. We were certainly pleased that an experienced CEO of Peter’s calibre was appointed to undertake that work, and we certainly engaged quite extensively with Peter and arranged a session with some of the councils which were affected adversely by the rate capping determination and the like as well. But we did see it as part of the ongoing conversation there, and whilst there were some issues perhaps technically out of scope, I think it was probably encumbered and we were probably pushing and probing some of these issues anyway. It is good that at least there are some issues which have been flagged in the Brown review which perhaps may not sit necessarily within the full remit of the Essential Services Commission but certainly as part of a broader discussion that needs to be had proactively with the sector around, I guess, ongoing reforms around the use of public resources.

But I come back to that fundamental point picked up in the Brown report; the balance here is actually really important — the balance between efficiency, use of public resources and, yes, providing services but in a context which is respectful, mindful and supportive of the local democratic decision-making process.

The CHAIR — I thank the three of you for your contributions today. They have been very helpful. Just one final thing, the submissions to the Brown review, did your organisations make formal submissions?

Ms McKENZIE — We did.

The CHAIR — Could we have a copy of that? That would actually be very helpful for us, if that is possible.

Ms McKENZIE — It was not a written submission process, Chair. It was actually a meeting process; he came and met with us.

The CHAIR — Or such as you can provide. That would be helpful. Just in conclusion on the Brown review and its breadth, is it your view that there should be a broader review of the rate capping regime?

Ms SHING — Mr Preiss, you indicated in your evidence that, as a consequence of the Local Government Act review, rate capping was an appropriate component of that review.

Mr PREISS — Sorry, I do not think that is what I said. What I would suggest is that the Local Government Act review should provide the basis for determining the value or otherwise of the current rate capping policy.

Dr HOLLOWS — Although, that being said, those provisions in the current act have been quarantined and we understand will be carried forward in terms of any new local government act, as indicated in the directions paper.

The CHAIR — That it should be reviewed or not? Is yea or nay top of mind? You can take it on notice.

Dr HOLLOWS — The review that needs to be done is the broader ongoing financial viability and reform of the sector. Our view, from day one, is that rate capping was a blunt instrument to achieve probably an outcome that all of us around this table share in common in some shape or form. But the process has to be one which is engaging with councils rather than being in a kind of antagonistic environment. We just pointed to some of the public comments made during the rate capping application process, and we made our views strongly felt to the minister at the time about that. We have actually had a little bit more cooperation in the space around a common objective, and we like to think with the new, incoming councillor groups that will be a good starting point for that conversation.

The CHAIR — Thank you to the three of you.

Witnesses withdrew.