STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into rate capping policy

Melbourne — 5 September 2018

Members

Mr David Davis — Chair
Mr Cesar Melhem — Deputy Chair
Ms Melina Bath
Mr Richard Dalla-Riva
Mr Nazih Elasmar
Mr Daniel Mulino
Ms Huong Truong
Mr Daniel Young

Participating Members

Mr Jeff Bourman
Ms Samantha Dunn
Mr James Purcell
Mr Simon Ramsay
Dr Samantha Ratnam
Ms Jaclyn Symes

Witness

Dr Ron Ben-David (affirmed), Chairperson, Essential Services Commission.
The CHAIR — I declare open the hearing of the Environment and Planning Committee into rate capping. I indicate this will likely be our final hearing. I am thankful to Dr Ron Ben-David for coming. There was some toing and froing between the officers, but I am thankful that at the last minute you agreed to appear. I want to put that on record.

There are the general matters about what you say here is protected but if you say it outside, it is not protected.

If you are very familiar with our inquiry and obviously your work on rate capping at the ESC, I wonder if you might briefly update us on where things are. There was a piece of correspondence from your organisation, from one of your staff, to the committee a day or so ago in response to questions by our secretary. I wonder if you might put that in context, and then I have a couple of questions — and others may as well.

Dr BEN-DAVID — Sure. First of all, can I just apologise for whatever mix-up there was. We think what happened was that Michael was corresponding with my secretary, who had a baby unexpectedly — the baby was expected; it was just unexpectedly early — so one day she just stopped coming to work.

Ms BATH — Congratulations to her.

Dr BEN-DAVID — Thank you very much. So I apologise. I only found out about this at 5 o’clock this afternoon, so I hope I can answer your questions. Since then I have seen the email — that is, the information that was shared with the committee. I am happy to talk to that as best I can.

In terms of where we are up to at the moment, it is reasonably quiet on the local government front. We are preparing what is called our annual compliance report, which comes out usually in late November or early December, which is where we check whether each of the 79 councils have complied with the rate cap. Where they have complied, we just note they have complied; where they have failed to comply, we indicate by how much their rates have increased as opposed to the rate cap. That is really the work that is underway at the moment.

The CHAIR — I understand that you may have formed a view on that — that three of them have not complied and that the rest are sort of compliant.

Dr BEN-DAVID — That was last year.

The CHAIR — That was last year?

Dr BEN-DAVID — That was the last year, yes.

The CHAIR — Okay. And what is the case this year? Have you as yet assessed those?

Dr BEN-DAVID — No. The data is just coming in. It comes in in dribs and drabs. It takes quite a long time, then it comes in and often it is not right and we have to send it back to get the right data sent to us. So that is what the team is doing at the moment.

The CHAIR — And do you have the data on a number of the councils?

Dr BEN-DAVID — There will be bits and pieces of data. Whether there is sufficient data to form a view yet, I am sorry, I cannot tell you that. I could take that on notice if you want.

The CHAIR — Do you take the data from the Victoria Grants Commission? Do you use that data?

Dr BEN-DAVID — Not for that purpose, no. The data comes directly from councils. What we have tried to do ever since we started this regime is to design our data requests so that wherever we can we make our data requests the same as those provided to others, whether it is a council, the commission or —

The CHAIR — We have had that discussion previously.

Dr BEN-DAVID — But no, we get our data directly from the councils for this purpose.

The CHAIR — Well, any data that you could provide to us in terms of this forthcoming year would be much appreciated. We are obviously keen to provide the most accurate picture. I understand that you may not
have a complete set, but even an incomplete set might be of interest to us. Is there any pattern that is emerging at this point?

Dr BEN-DAVID — I am sorry; I do not know.

The CHAIR — You do not know what the answer is.

Dr BEN-DAVID — All I know is that the data is rolling in at the moment and the team is working on it. I cannot give you any more advice than that.

The CHAIR — And the data that goes to the grants commission, that is not the same data, is it? You are saying it is a different set of data.

Dr BEN-DAVID — There will be overlaps, but I cannot tell you the extent of them. I would need my technical guys here. But I can take that on notice and try and provide it to you.

The CHAIR — And would they have their dataset in place as yet for the year ahead? Would they have their estimated rates and so forth?

Dr BEN-DAVID — The councils?

The CHAIR — No, the grants commission.

Dr BEN-DAVID — I do not know.

The CHAIR — I am just interested in your take.

Dr BEN-DAVID — My guys could tell you straightaway, but I cannot tell you that, sorry.

The CHAIR — And the rate cap applies to average rates, not revenue. I wonder if you might explain that for us.

Dr BEN-DAVID — Bear with me on this one.

The CHAIR — You may not be able to answer every point.

Dr BEN-DAVID — I will do my best. The way it works is that the councils have to tell us what their total revenues were on 30 June each year, so at the close of the financial year. We then uplift that by the minister’s rate cap. Then the councils come to us and tell us what their estimated revenues are for the year ahead, and we confirm that they are compliant with that calculation that we have done. So we take their current rates as at 30 June, uplift them by the cap —

The CHAIR — So it might be $1 million at June and then you apply the —

Dr BEN-DAVID — Two per cent or whatever it is. We uplift that, then they come back with these reams of data to try to demonstrate to us what their rates are on an average basis. When I say average, they come back with their total rate revenue divided by the number of ratepayers in that year, then they uplift that divided by the number of ratepayers in that year.

I understand that one of the confusions in this area is that if you go and look at their reports and you look at their rate revenue in this year and you compare it to that year, it will have increased by more than the rate cap.

The CHAIR — They may have more ratepayers.

Dr BEN-DAVID — It comes down to a few things. It is growth, as you say. It will also be subdivisions, so again that will be more ratepayers, but it will also be because of capital improvements that people make to their properties. If you could back those things out, you would end up seeing the rate cap. But because it is quite hard to back them out, it is hard to see the rate cap. That is why when you compare two years you might end up seeing, say, a 3 per cent increase whereas the cap might only be 2 per cent.

The CHAIR — In total revenue, but the rates per property on average —
Dr BEN-DAVID — Should increase by the rate cap, that is right.

The CHAIR — And will that be the case this year coming, do you think? You do not know yet.

Ms BATH — How long is a piece of string?

Dr BEN-DAVID — I would like to thinks so, but I cannot tell you that for sure. I just cannot. I do not have the information.

The CHAIR — And the other question I had — I will hand over to the Deputy Chair in a second — is: with respect to revenue from other sources, have you looked at this? A number of councils I think have, how can I say, gone on a focused campaign to bring in revenue from other areas, in one area at least sort of with the support of the state government, which has allowed an increase in fees for planning — so very big increases, some 100 per cent and some planning fees up even 1000 per cent in some cases. Do you look at those increases?

Dr BEN-DAVID — The rate base that we look at is defined in the legislation as the rates and municipal charges only, so it is strictly limited to that. That is another reason why people, when they look at their rate notices, there will be a large increase. I will stick to the question. So, no, we do not look at those as part of the rate capping framework. What we do need to do is each two years we have to produce what is called an outcomes report. In that outcomes report one of the things we will be looking at is not only what happens to the income from rates but what has happened to other sources of income. But that is only a report; we do not have any powers over those other —

The CHAIR — Other than to jawbone.

Dr BEN-DAVID — Well, to report. And yes, others might jawbone.

The CHAIR — And when will that report appear?

Dr BEN-DAVID — I think the first one will be around February–March next year. Again, it is because of having to get all the data and then having to go back, because councils —

The CHAIR — And have councils provided that data yet or not yet?

Dr BEN-DAVID — I would have to say I can take that on notice.

The CHAIR — Oh, you cannot. You are going to take that on notice too. We are very interested to see the total impact on ratepayers, who obviously pay all of the fees and charges in one way or another.

Dr BEN-DAVID — Yes. When we recommended to government that there should be this outcomes report, one of the reasons was precisely that — that we are not seeing revenues sort of being collected elsewhere.

The CHAIR — You squeeze the balloon here and it moves over there, as it were.

Dr BEN-DAVID — Well, if that is happening, at least it should be —

The CHAIR — Documented.

Dr BEN-DAVID — documented. But also, the reason for the outcomes report is to monitor what is happening to services, infrastructure and maintenance as part of the rate capping framework. So at the time we did the initial inquiry, which I think was 2015, one of the main issues that was raised with us was what was called the New South Wales problem, which is that when New South Wales put in a rate cap — I think it was in the mid-80s — what happened was there was a big reduction in capital expenditure, which of course you can get away with for a decade or so, but eventually it comes back to haunt you. So we wanted to make sure that was monitored from the get-go, and —

The CHAIR — But also the seeking of novel revenue sources by the councils.

Dr BEN-DAVID — Well, I do not know the level of detail we will go to, but we will certainly look at, at a minimum, total other revenues. Whether we go down to a line item-type analysis, I do not know yet.
The CHAIR — Well, I would encourage you to look at planning fees, because the minister allowed huge increases, which will be visited upon the residents of those municipalities.

Mr MULINO — I do not have a whole lot to add. I guess it is interesting to think about all the different components going into an increase in the aggregate rates revenue, because I think a lot of people will just look at that and see that it is not 2 per cent. As you said, there is population growth. There are subdivisions. There are also changes in capital improved value.

I guess one additional thing I thought, which I would be interested in your thoughts on, is that we have got to be quite careful with these statistics, I imagine, in that if you are in a place like Casey or Cardinia, which is within my electorate, massive population growth is one thing, but where you have a situation where, let us say, hypothetically — and I am not saying this is the case — the average capital improved value of the properties being added is significantly higher than the average of the existing pool, you might end up with an increase in the overall rate base of 2 per cent, allowing for all those other factors, but it might also lead to a slight change in the average per property. I think one other thing we have to be careful with, I imagine, is the average rates per ratepayer, which I imagine could be affected by the distribution of property values, which could be skewed a bit if you are adding to the stock in a way that is different to the existing —

Dr BEN-DAVID — That is right. The thing that causes the biggest variance from the rate cap is revaluations. There is no doubt. We get letters and emails and phone calls about why people’s rates are going up by 10 or 20 or 30 per cent when they keep hearing the rate cap number of 2 per cent, and the answer is that usually it is revaluations. There is also the differential rating that councils use. Sometimes they adjust those differential rating ratios there. And then of course the other reason is one that I think the Chair pointed out, which is people look at the bottom line, and the bottom line includes all the other charges, and they may increase or be added to as well. So there are a whole lot of reasons why what people perceive might be different to the rate cap.

Mr DALLA-RIVA — Thanks, Ron, for coming in at late notice. As the Chair said, this will probably be the last public hearing. We have heard where ratepayers are still agitated by the fact that the rate increase has been exceeded well above by the fees added and the revaluation. There are a lot of issues around councils now topping up their rates notice with fees that perhaps were not as high as they are now, so they have countered it by adding additional fees, which is clearly out of the control of rate capping and clearly out of the control of your domain. My understanding is that that is why you are doing that assessment review that will be released next year. Is that what you are trying to ascertain?

Dr BEN-DAVID — Yes.

Mr DALLA-RIVA — I was not too sure in the discussion that that is what you are intending to do.

Dr BEN-DAVID — That is one of the things — to make sure that if revenue is being collected elsewhere the spotlight is shone on that. But like I said, it is also to look at what is happening to their maintenance budgets, their infrastructure spends and their service delivery so that there is a clear picture of what the impact of rate capping is on the overall status, if you like, of individual councils and the sector as a whole.

Mr DALLA-RIVA — So that will be out when? May, you said. When will the review be released?

Dr BEN-DAVID — The outputs report? I think it is February or March. I can let Michael know.

Mr DALLA-RIVA — Will that be public?

Dr BEN-DAVID — Yes.

Mr DALLA-RIVA — There is another question just in relation to your updated guideline document. It says that the ESC is considering the option of having an additional higher cap application period in September each year. Is that being considered?

Dr BEN-DAVID — Yes. I will provide you with an answer, but it is a little bit guarded because I am not 100 per cent sure. I think that will rely on some changes to the Local Government Act, but the idea is that this would give councils the opportunity to lodge a variation earlier. What was the date?
Mr DALLA-RIVA — September.

Dr BEN-DAVID — So they could get a decision if they lodge in September probably by November or early December, which is well ahead of the start of the financial year. It just allows them to lock in their rates much earlier and therefore their planning and their budgets much earlier. There is something in the Local Government Act that says —

Mr DALLA-RIVA — Was it to do with the CPI — the calculations and the forecast?

Dr BEN-DAVID — No. I will take that on notice.

Mr DALLA-RIVA — While you are taking that on notice, just in relation to if the applications are going to be early or in a period in September, let us say — I am not holding you to that — will the applications made in September use the latest May budget CPI and the wage price index forecast or will they use those from the previous December?

Dr BEN-DAVID — It will always be the latest, so it will be the May budget forecasts.

Mr DALLA-RIVA — While we are on the variations, on the one hand we have had ratepayers happy with the rate cap but then unhappy with councils using other techniques to, I guess as they perceive it, bypass it. On the other side we have councils that are concerned about their capacity to increase their rates and about service delivery. So I am pleased you are looking at that as well. The issue that keeps on coming up from councils, however, is the amount of work that they are consistently having to do to make a variation application. It is not unique to outer suburban interface councils or regional councils or the inner city; it is a consistent issue that comes across. It may not be being reported to you as chairperson for various reasons. It may be that the bureaucracy within your organisation does not want to tell you that that is the feedback, but that is the feedback we are getting. I think even my Labor colleagues —

Ms BATH — For example, $60 000.

Mr DALLA-RIVA — We had one that wanted a $150 000 variation. It cost them $60 000 to get it. I cannot remember —

Ms BATH — It was $200 000, and it cost them $60 000 to get it.

Mr DALLA-RIVA — Remember in the early stages we raised the issue of concern about the processes seeming very overly bureaucratic for councils that seemed to be spending an enormous amount of time. I just wanted to get your feeling. Is it something to do with the legislation that is in place, or is it internal? The reality is that a bureaucracy sometimes creates a process. Now that we have been through this for a few years, have you yourself noticed it or had feedback, and if so, are you looking at perhaps options to streamline? I know we have had this discussion before.

Dr BEN-DAVID — The honest truth is that no-one has approached me about it. We do run a very flat organisation, so —

Mr DALLA-RIVA — Yes, that is what I am asking. I am not trying to —

Dr BEN-DAVID — We are not one of these big departments where there are many, many layers. We work quite closely with quite a few of the rural councils because we are trying to help them along. The general view there is that it is not a huge impost. That is what they tell me, and I believe them.

The CHAIR — I think it has improved. That is my sense from the feedback.

Dr BEN-DAVID — I can only tell you what I am being told. One council I have spoken to, not in recent times, and I had a long chat with the CEO of Towong shire, Juliana Phelps —

Mr DALLA-RIVA — Which one is it?

Dr BEN-DAVID — Towong — next door to Wodonga, to the east. They are a council that have come to us for two variations now —
The CHAIR — And you have given them those.

Dr BEN-DAVID — and we have given them. For them, what they tell us is that it is not a huge impost, because they have done the work. Because they have set up their accounts in a way that allows them to draw out the information easily, because they already have a good community consultation process in place, it is not a huge impost on them. I cannot comment on other councils, but that is one I have had firsthand discussion with. We have been, as I have said, I think, a couple of times in previous hearings — hand on heart I can say this — very conscious not to create any more burden than we need to, so we have worked closely with Local Government Victoria, the grants commission and the Auditor-General to try and align our information requirements as much as we can.

I suspect a lot of it, with the variation amongst councils, would be the way they budget, because there is a lot of variation around the robustness of the way they budget across councils. To be frank, I think there is also a cultural element. Those councils that have kind of said, ‘All right, we’re going to work within this’, as opposed to against it, probably find that it is a lot easier. Someone referred to the guidance material before. We review that every year to try and streamline it for councils as best we can. But in the end there is a certain limit of information that we need in order to do our jobs.

Mr DALLA-RIVA — So you are comfortable with the way things are sort of progressing. There was initial confusion — I think there was.

Dr BEN-DAVID — I am certainly hearing less — I am not hearing anything at the moment. People like the MAV and the VLGA have not been backward in coming forward. I am not getting any calls from Local Government Victoria telling me there are concerns out there, so I can only go by what I am told. But to the extent that I am happy about anything, I am happy that our efforts are to always be towards minimising the impost and not just creating a bureaucracy for its own sake. I would like to think I have got a reputation of not doing that.

Mr DALLA-RIVA — Thank you, and thanks for the position that you are now sharing. I think in the early stages you were a bit guarded, from memory. Maybe it might have been the people around you, but certainly you are a bit more open about where things are at.

The other thing I am going to ask just in terms of the report that is going to come out is: is that going to suggest recommendations to government?

Dr BEN-DAVID — No.

Mr DALLA-RIVA — Or is it just a warts-and-all position?

Dr BEN-DAVID — The latter. It is a non-judgemental look at the — it is a report for the reader to draw their own conclusion. It is not an assessment, if you like, and it is certainly not an inquiry in terms of making recommendations to government.

Mr DALLA-RIVA — So that being the case, at any point do you think that where there are agencies that do have that capability, like the Auditor-General or the Ombudsman or whatever — I do not know, but perhaps the Auditor-General — to perhaps review that? Would that be a consideration that may be worthwhile, such that there is accountability? As you have said, the councils themselves are doing some sort of moves. I am trying to get to, I guess, how do we assess? How is there at some point an assessment of the rate capping model itself per se? Is it effective and what are the shortcomings and therefore recommendations to the future government?

Dr BEN-DAVID — Sure.

Mr DALLA-RIVA — You may not have a policy position on it.

Dr BEN-DAVID — No, I think in the end it is a policy call for relevant ministers and departments. There is no reason why we could not be asked to provide some sort of assessment if the government of the day so chose. But that has not been within our thinking at this stage, because what we have been asked to do now is just provide a report. We do performance reports across quite a number of sectors, and we see it as that.

Mr DALLA-RIVA — Which is what the Auditor-General does.
Dr BEN-DAVID — Yes, that is right.

Mr DALLA-RIVA — And the Auditor-General has reports that also have recommendations, and that is why I sort of —

Dr BEN-DAVID — The way this one has been set up under the legislation is that it is purely a performance report.

Mr DALLA-RIVA — Okay. So it is a legislative requirement not a —

Dr BEN-DAVID — Yes.

Mr DALLA-RIVA — Okay, you have clarified that, because I was not too sure. So you are legislated to report just as a matter of fact, not with suggestions or recommendations, and that is within the legislation.

Dr BEN-DAVID — That is right.

Ms BATH — Thank you, Dr Ben-David, for coming out on short notice. I hope you did not get indigestion, and I hope your stomach is not grumbling too much for lack of nourishment. Just for clarity for me, can you just confirm how often have the annual compliance checks been running? Have they been last year and this year?

Dr BEN-DAVID — Yes, we have done it for two years and we are preparing the third.

Ms BATH — So 2015–16; is that right?

Dr BEN-DAVID — So we have done the 2016–17 year and the 2017–18 year, and we are about to do the 2018–19 year.

Ms BATH — Thank you. That is tremendous. My interest relates to country councils and some of the struggles that they have to meet their maintenance requirements and infrastructure builds and the like. I guess something that has been relayed to me from maybe my colleagues in the northern part of the state relates to category-based variations on rates. So the overall rate cap of that shire might be, supposedly, CPI, but you have got farming land being rated at a higher differential. Let us just round it out to 20 per cent, and then your townies — your local town residents — might be down at 1.5 per cent, but your overall rates are capped at the CPI. Do your annual compliance checks investigate any of that, have any eyes on that at all, have any discussion or the like, because you can understand that some of the ratepayers may want to have an avenue to complain or put their case, as opposed to others who are happy with the less?

Dr BEN-DAVID — No. I understand. My memory is a little bit hazy, but at the time when we did our initial inquiry for government on how to set up a rate capping framework we concluded — I cannot quite remember the reason — that differential rating should not be included in the rate cap.

The CHAIR — Under the aggregate.

Dr BEN-DAVID — Yes, it is under the aggregate, but that is up to the councils.

Ms BATH — That is a matter for councils.

Dr BEN-DAVID — It is up to the councils, because they are accountable to their constituents and they have to explain why they have chosen whatever differential rates they have applied. So no, we never look that far; we just look at the aggregate.

Ms BATH — I guess my interest lies in, and this might be something that you cannot answer, whether you think that the average rate person — so I will put the farmer who is out there with the hide — has the capacity to understand? They will see the aggregate, but do you think there is a mechanism for them to have clear indication as to what they are paying?

Dr BEN-DAVID — My understanding is that councils are required to put an explanation on the notice. It is actually required, I think, by the legislation. How good that explanation is I have no idea. I have not looked at any, and we have not reviewed them.
Ms BATH — It is not part of your purview per se?

Dr BEN-DAVID — No.

Ms BATH — Thank you. I guess the other thing you did mention was how councils are maintaining their maintenance budgets, infrastructure spends and the like. As part of your compliance checks, would you like to make a comments space in the compliance check? It sounds like you have been speaking to some councils. Have they been commenting to you on, if I can say, some of their concerns around meeting those infrastructure and maintenance requirements?

Dr BEN-DAVID — There are two reports, just to clarify. There is one that is called an annual compliance report. That is where all we do is check have they met the cap — yes or no. If no, what has happened? It is just a number. So there is no commentary; it is just a table of numbers. That we do every year. That is the report that usually comes out late November/early December. Then every two years we will do an outcomes report, and that is the one we are doing for the first time in February/March 2019. The way that will work is we will write it all up and then we will give them the opportunity to provide any comments they want and to explain anything that appears unusual.

The Chair referred to maybe there being a big increase in non-rateable income. As I said, we are not going to be providing a whole lot of commentary around that, but we are going to give them the opportunity to explain why that might have occurred. That is exactly the way we operate in our energy market reports, in our water performance reports and eventually in our port of Melbourne report. We always give those being reviewed or monitored the opportunity to explain anything they wish to explain.

The third part of your question was: do they raise concerns with us about their ability to sort of maintain their infrastructure and maintenance?

Ms BATH — Maintenance — roads, bridges.

Dr BEN-DAVID — Where we get a variation, yes.

Ms BATH — That will be a component of the request for the variation.

Dr BEN-DAVID — Yes. Certainly with the smaller rural councils, not so much in the north but in the west, where we have had quite a few applications from over the last three years, we roll up our sleeves. We get in there. We really do try to understand their business from the inside and, to be very honest, just to try and help them through the variation process. We appreciate the fact that they do not have the resources of other councils. That does not guarantee them the outcome, even though in fact the outcome has generally been in their favour, but at least we want to make sure that the process does not trip them up. I think you will see there Hindmarsh, and West Wimmera I think was in there.

Ms BATH — Yes. Hindmarsh applied and then the Borough of Queenscliffe. That is an interesting one — that they needed one variation and then not.

Dr BEN-DAVID — Yes. It was a strange one, that one. What happened was that one of their income-generating businesses, being a caravan park, was being renovated. So they were losing income for one year, but then their own financials showed they were having strong income growth once the caravan park came back on line because they had upgraded the facilities and expanded it. So we just could not see the reason why. Their financials were reasonably healthy so they could wear the cost for a year and then they were going to more than recover it over the next few years, so we rejected that one. That was a revenue issue, not an expenditure issue.

The CHAIR — I have one further question. Does your biennial report look at the impact of government grants on the councils? For example, particularly concerning for many of the country councils has been the disappearance of the Country Roads and Bridges Program.

Dr BEN-DAVID — Can I take that on notice, Chair? Sorry, I do not know.

The CHAIR — Yes — $1 million a year, it was, for each country council.
Ms BATH — Forty.

The CHAIR — Forty across the state.

Mr MULINO — Can I just add to that though? I think if that is going to be a question, you would want to include things like the Growing Suburbs Fund for rapidly growing councils.

Dr BEN-DAVID — I will have to take it on notice, but I suspect that what we do is we would be looking at their own-source revenues, so the ones they generate themselves, as opposed to ones they receive externally. I will have to take it on notice, and I will get back to Michael with an answer.

Mr MULINO — If we going to look at other programs, we are going to have to look at all of them.

The CHAIR — It is probably the largest of the lot.

I want to thank Hansard for the inquiry. I thank Dr Ben-David for coming in at late notice today and for his assistance. There are a few bits you have taken on notice there, and I will get Michael to follow up on those. Thank you, Michael, too, for your help across this inquiry in particular. We will obviously move to the final phase of it.

Committee adjourned.