



NOTICE OF SPECIAL MEETING

To: Mayor Bill Spragg

Councillors	Ward
Councillor Ron Nelson Councillor Jan-Claire Wisdom	Manoah
Councillor Ian Bailey Councillor Jan Loveday	Marble Hill
Councillor Kirrilee Boyd Councillor John Kemp Councillor Nathan Daniell	Mt Lofty
Councillor Andrew Stratford Councillor Lynton Vonow	Onkaparinga Valley
Councillor Linda Green Councillor Malcolm Herrmann	Torrens Valley

Notice is hereby given pursuant to the provisions under Section 82 of the Local Government Act 1999 that a Special meeting of the Council will be held on:

Wednesday 1 August 2018
7.00pm
63 Mt Barker Road Stirling

Business of the meeting:

1. Retirement Village Review
2. Rate Capping
3. Stonehenge Reserve – Masterplan Update

A copy of the Agenda for this meeting is supplied under Section 83 of the Act.

Meetings of the Council are open to the public and members of the community are welcome to attend. Public notice of the Agenda for this meeting is supplied under Section 84 of the Act.

Andrew Aitken
Chief Executive Officer



AGENDA FOR SPECIAL MEETING

Wednesday 1 August 2018
7.00pm
63 Mt Barker Road Stirling

ORDER OF BUSINESS

Council Vision

Nurturing our unique place and people

Council Mission

Delivering activities and services which build a resilient community, sustain our built and natural environment and promote a vibrant economy

1. COMMENCEMENT

2. OPENING STATEMENT

"Council acknowledges that we meet on the traditional lands of the Peramangk and Kaurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children's ability to live on this land."

3. APOLOGIES/LEAVE OF ABSENCE

3.1. Apology

3.2. Leave of Absence

4. DECLARATION OF INTEREST BY MEMBERS OF COUNCIL

5. PUBLIC FORUM



6. BUSINESS OF THE MEETING

- 6.1. Rate Capping

7. CONFIDENTIAL ITEMS

- 7.1. Stonehenge Reserve – Masterplan Update
- 7.2. Retirement Village Review

8. CLOSE SPECIAL COUNCIL MEETING

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Wednesday 1 August 2018
AGENDA BUSINESS ITEM**

Item: 6.1

Originating Officer: Terry Crackett, Director Corporate Services

Responsible Director: Terry Crackett, Director Corporate Services

Subject: Local Government (Rate Oversight) Amendment Bill 2018

For: Decision

SUMMARY

On 20 June 2018 the State Government introduced the *Local Government (Rates Oversight) Amendment Bill 2018* (the Bill) in the House of Assembly following a SA Liberal Party election commitment to introduce rate capping legislation in the Parliament within their first 100 days of government.

The Bill establishes a framework for a rate cap policy that gives the Essential Services Commission of South Australia (ESCOSA) responsibility for setting an annual rate cap, assessing applications from councils for variations to the rate cap, and monitoring and reporting on council compliance with the rate cap. Rate capping is promoted by the government as a measure to ease cost of living pressures on households and businesses.

At the Local Government Association (LGA) Special General Meeting, members voted that South Australian councils should review the Bill and advise the LGA by Friday 3 August 2018 of the council's endorsed position based on the following options:

- a) Council supports the *Local Government (Rate Oversight) Amendment Bill 2018*; or
- b) Council opposes the *Local Government (Rate Oversight) Amendment Bill 2018*.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
2. That the Adelaide Hills Council opposes the *Local Government (Rate Oversight) Amendment Bill 2018* given the research into the effects of rate capping on councils and their communities and the detrimental impact experienced by councils in New South Wales and Victoria, including increasing the burden of 'red tape' as well as the impact on service delivery, long term financial planning and asset sustainability.
3. To note that this research leads the Adelaide Hills Council to conclude that rate capping is associated with higher levels of debt; lower levels of infrastructure maintenance; and reveals no evidence of higher levels of efficiency.

4. That it prefers, and would welcome, the State Government instead taking a more constructive partnering approach with Local Government to further enhance the capability of councils to achieve efficiencies and to limit the detrimental impact of cost shifting and other financial burdens by State Government on local councils (e.g. the Waste Levy, which the State Government increased by 15% for all councils this financial year).
 5. That it recognises the long, challenging and successful period of adjustment made by South Australian councils following the Local Government Association's Financial Sustainability Review in 2006.
 6. To highlight the responsible approach already being taken by South Australian councils, including Adelaide Hills Council, in long term financial planning, asset management planning and achieving annual budgeted efficiencies (e.g. approximately \$450,000 of efficiencies in its 2018-19 Adelaide Hills Council Annual Business Plan & Budget), despite the cumulative impact of State Government cost shifting and other financial burdens.
 7. That it recognises and supports the transparency, benefits and socio-economic prosperity that currently arise from decisions being made at a local level by democratically elected councils, especially those made following extensive consultation with local communities relating to council strategies, plans, services, annual budgets and rate rises.
 8. To support the LGA using its best endeavours to secure the best possible outcome for local government and the communities they serve.
 9. To note that the LGA Board will hold a special meeting to consider the endorsed positions of member councils, and
 10. To note that the LGA Board will consider the matter on the basis of both a 'one vote, one value' counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings) and notes that the LGA Board will also use identified criteria to inform and resolve a position.
-

1. GOVERNANCE

➤ Strategic Management Plan/Council Policy

Goal	Organisation Sustainability
Strategy	Financial Sustainability

Council has placed considerable focus on achieving financial sustainability through is strategic management planning (specifically long-term financial plan) initiatives in order to responsibly deliver the services and infrastructure not only required by legislation but also desired by the Adelaide Hills community.

➤ Legal Implications

On 20 June 2018 the State Government introduced the *Local Government (Rates Oversight) Amendment Bill 2018* (the Bill) in the House of Assembly. The Bill, if adopted will amend the *Local Government Act 1999*.

➤ **Risk Management Implications**

Council's support of the LGA's opposition to the Bill will assist in mitigating the risk of:

Failure to manage, improve and develop the financial resources available to the Council leading to real decreases in the level and range of services and infrastructure provided to the community.

Inherent Risk	Residual Risk	Target Risk
Extreme	Medium	Medium

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

Whilst the exact impact of rate capping as detailed within the Bill is difficult to determine, the outcomes in other states from similar regimes have been detrimental to the maintenance of the capital and operating service ranges and levels offered by those councils

➤ **Customer Service and Community/Cultural Implications**

The possible impact of rate capping on customer services and community programs has been taken into account when compiling this report and when forming its recommendations.

➤ **Environmental Implications**

Not applicable.

➤ **Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community**

Council Committees: Not Applicable
Council workshops: Not Applicable
Advisory Groups: Not Applicable
Administration: Not Applicable
Community: Not Applicable

2. **BACKGROUND**

On 26 March 2016 the then Shadow Minister for Local Government, Steven Griffiths MP, introduced the *Local Government (Rate Increases) Amendment Bill 2016* (the Rates Increases Bill). The Rate Increases Bill was defeated in Parliament on 9 June 2016.

Subsequently, on 15 February 2017, the SA Liberal Party indicated to Parliament that they will seek an amendment to the *Local Government (Boundary Adjustment) Amendment Bill 2016* to introduce rate capping.

In response the LGA proposed a public awareness campaign as part of a three-phase strategy to positively position the local government sector in the lead up to state election held in March 2018.

The campaign was part of ongoing efforts to inform, activate and encourage our communities to support the extent and value of services provided by councils. It highlighted the importance of the local government sector in enhancing the communities we live in and delivering the services they expect.

In early 2017 the LGA sought and received support from the majority of councils. To this end, at a meeting of Adelaide Hills Council on 28 March 2017 it was resolved as follows:

14.9. Promoting Greater Awareness of Council Services

Moved Cr Linda Green
S/- Cr Nathan Daniell

68/17

Council resolves:

- 1. That the report be received and noted**
- 2. Notes the unanimous decision from South Australian councils at the 2016 Local Government Association (LGA) Ordinary General Meeting to reject rate capping**
- 3. That it does not support the concept of rate capping as it is currently being proposed and as it is applied in other states around the country**
- 4. Agrees to support and participate in the LGA's public awareness campaign and delegates the Chief Executive Officer to determine the level and extent of Council's operational involvement in campaign elements**
- 5. Notes the LGA will continue to work with all Members of Parliament and political parties to ensure rate capping is not imposed on South Australian communities.**

Carried Unanimously

The new State Government subsequently introduced the *Local Government (Rates Oversight) Amendment Bill 2018* (the Bill) in the House of Assembly on 20 June 2018 following an SA Liberal Party election commitment to introduce rate capping legislation in the Parliament within their first 100 days of government.

Rate capping is promoted by the State Government as a measure to ease cost of living pressures on households and businesses. A copy of the Bill has been included at **Appendix 1**. In support of the Bill a letter from the Hon Stephan Knoll MP (Minister for Transport, Infrastructure and Local Government) was sent to Council outlining the reasons behind the Bill. This letter included an Explanatory Paper. (Refer to **Appendices 2 & 3**).

Key elements of the Bill include:

- The Essential Services Commission of South Australia (ESCOSA) will be responsible for making rate cap determinations, assessing applications from councils for variations to the rate cap and reporting on the outcomes of the system.
- The details of how the rate cap will be determined will be subject to ESCOSA guidelines that are yet to be developed.
- The Bill gives ESCOSA flexibility to determine a formula that may, or may not, include a particular index (CPI, LGPI) and whether the cap will include any efficiency or productivity component.

- The cap will be applied to a ‘base standard rate’, which is a nominal rate that is arrived at by dividing the total annualized general rate revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June).
- While this model intends to account for growth in the number of rateable properties over the course of a year, this will require a closer look to ensure that growth in different types of land use are properly accounted for.
- A council may apply to ESCOSA for a variation from the rate cap for a maximum period of up to 5 years. In applying for a variation, councils will need to provide the reasons for the variation application, evidence of community consultation, an assessment of the likely impact on ratepayers.
- Councils will be expected to make efficiencies across their operations and undertake service reviews before applying for a rate cap and will need to demonstrate they have considered funding priorities and alternative sources of revenue.
- Further details of the variation process will be provided through ESCOSA guidelines that are yet to be developed.

Following the introduction of the Bill the LGA held a Special General Meeting on Friday 13 July 2018 where members voted that South Australian councils should review the Bill and advise the LGA by Friday 3 August 2018 of the council’s endorsed position based on the following options:

- a) Council supports the Local Government (Rate Oversight) Amendment Bill 2018; or
- b) Council opposes the Local Government (Rate Oversight) Amendment Bill 2018.

The minute from the meeting was as follows:

4.1 Local Government (Rate Oversight) Amendment Bill 2018

Moved Goyder Seconded Naracoorte Lucindale that the Special General Meeting:

1. notes the report;
2. notes the policy position unanimously adopted by LGA Members at the 2016 Ordinary General Meeting that decisions concerning council rates are better informed, and the impacts better understood, when made by the respective councils in consultation with their communities;
3. requests that all South Australian councils carefully review the Local Government (Rate Oversight) Amendment Bill 2018 and advise the Local Government Association by Friday 3 August 2018 of the council’s endorsed position based on the following options:
 - a. Council supports the Local Government (Rate Oversight) Amendment Bill 2018; or
 - b. Council opposes the Local Government (Rate Oversight) Amendment Bill 2018.
4. supports the LGA using best endeavours to secure the best possible outcome for local government and the communities they serve and requests that councils provide to the LGA a list of the priority issues, amendments and concessions they would seek to address in the LGA’s discussions with political parties about this rate capping legislation;
5. notes that the Local Government Association Board will hold a special meeting to consider the endorsed positions of member councils; and
6. notes that the LGA Board will consider the matter on the basis of both a ‘one vote, one value’ counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings). The Board will also use identified criteria to inform and resolve a position.

Carried

A copy of the Agenda from this meeting has been included at **Appendix 4** as well as a supporting presentation from the Institute for Public Policy & Governance at **Appendix 5**. An email from Mayor David O’Loughlin as President of the Australian Local Government Association has also been provided at **Appendix 6**.

The appendices provide a significant amount of information in relation to the Bill, as well as analysis of potential impacts given experience in other states, and as such are worth reading in detail.

Following the receipt of responses from councils by 3 August, a special meeting of the LGA Board will be called to consider the endorsed positions of member councils. As rate capping would impact on councils differently depending on size, services, budget and rate base, the LGA Board will consider the endorsed positions of member councils on the basis of both a ‘one vote, one value’ counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings).

The Board will also use the following criteria to inform and resolve a position:

- A merits-based assessment of the proposed legislation;
- The best interests of the communities of South Australia and their confidence in the local government sector;
- Current LGA policy positions and whether there is a mandate from members for an amended policy to be adopted;
- Potential impacts on the long-term financial sustainability of the local government sector, and how any negative impacts could be mitigated;
- Potential amendments and concessions that are in the best interest of councils and the community they serve;
- Positions of political parties in the Legislative Council and the impact this would have on the outcomes that can feasibly be achieved through the parliamentary process; and
- The number of responses received and the number of councils that did not participate in the voting process.

The Bill has now been passed by the House of Assembly and was read for the first time (i.e. introduced) in the Legislative Council on 25 July 2018. It is understood that the matter will be considered when Parliament resumes from the winter break (i.e. September/October 2018).

3. ANALYSIS

Given the significant amount of information attached to this report it is not intended to reiterate the many points that have been raised. It is however important to note that the potential impacts associated with the implementation of the Bill are significant and are likely to be detrimental to our long term ability to maintain existing infrastructure and service levels in a financially sustainable manner.

It is also important to note that the *Local Government Act 1999* currently sets out sound structures in relation to accountability, transparency and engagement, and provides for independent oversight to ensure that councils are meeting their compliance obligations.

As outlined in the attached papers however, that does not mean that things can't be improved. After consulting with member councils, the LGA has developed a sector-driven local government reform agenda that is focussed on these principles:

- Sustainability
- Efficiency
- Local decision making
- Sector consistency
- Simpler regulation

Ultimately change within local government needs to benefit communities and create public value for South Australia. The Bill in its current form does not appear to be taking an holistic approach to local government funding and expenditure. Issues such as cost shifting from state to local government (most recently observed in increased EPA fees and the new local nuisance and litter legislation), as well as statutory fees that do recover the costs associated with the provision of a service (such as development assessment), are not contemplated in the proposed Bill.

Rate revenue is the Council's primary source of income (84%) with grants, fees and charges making up the remainder. As such Council has consistently looked to ensure that all expenditure needs have been held at levels that seek to minimise the impact on required rate revenue.

Over the past 7 years the level of average rate increases that have been applied by Council are outlined in the following table:

Description	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
To meet inflation (CPI)	2.6%	2.8%	2.5%	1.7%	1.5%	1.25%	2.3%
To fund increased capital renewal	1.0%	1.0%	0.9%	1.0%	1.0%	1.0%	1.0%
Sampson Flat Bushfire (one year only)	-	-	-	1.0%	(1.0%)	-	-
TOTAL INCREASE	3.6%	3.8%	3.4%	3.7%	1.5%	2.25%	3.3%

As can be seen from this table our Council had been able to maintain a very low level of average increase that reflects CPI plus 1% to support additional capital renewal works as identified within the Long Term Financial Plan.

This low level of increase has been achieved without the imposition of rate capping and in full consultation with the community.

As outlined within the 2018-19 Annual Business Plan & Budget, a large number of factors have influenced the required rate increase and included the following:

- Local Government Price Index increases on relevant goods and services, which in recent years has tracked above CPI.
- Provision for Enterprise Bargaining Agreements for most staff which determines conditions of employment and provide for annual salary and wages increases.
- Maintaining asset management (renewal) expenditure at a sufficient level to ensure long term maintenance of Council infrastructure, property and IT assets.

- Increased maintenance requirements due to an increase in capital works and construction of new assets over recent years.
- Ensuring key strategies from Council's Strategic Plan and Functional Strategies are costed appropriately.
- The impact of China mandating and enforcing stringent quality requirements for imported recycled materials (China Sword) has resulted in a significant financial impact on Council's budget including income reduction of \$110k and increased expenditure of \$268k.
- State Government budget decisions including a significant waste levy increase of over \$70k for 2018-19 and a required \$36k contribution from council for a planning portal.
- Grant funding including a reduction of \$656k in Council's Roads to Recovery grant income for 2018-19 as a result of the timing of Commonwealth Government payments.
- The divestment of the southern side of AHBTC resulting in reduced rental and reimbursement income but offset by reduced operating costs.
- The activation of an Arts and Heritage Hub resulting in a net cost of \$255k in 2018-19.

In response to the cost imposts on Council, and to minimise the burden on ratepayers, Council has continued its work and review of saving strategies including service sustainability. Saving strategies identified as part of the 2018-19 Budget preparation alone included organisational initiatives, service reviews, contract management efficiencies and savings, infrastructure and work planning actions as well as people management initiatives. These ongoing reviews identified savings of \$455k across the corporation which were captured in building the 2018-19 budget.

Given the above points and the documentation provided as Appendices to this report it is proposed that Council:

- Opposes the *Local Government (Rate Oversight) Amendment Bill 2018* given the research into the effects of rate capping on councils and their communities and the detrimental impact experienced by councils in New South Wales and Victoria, including increasing the burden of 'red tape' as well as the impact on service delivery, long term financial planning and asset sustainability.
- Notes that this research leads us to conclude that rate capping is associated with higher levels of debt; lower levels of infrastructure maintenance; and reveals no evidence of higher levels of efficiency.
- Prefers, and would welcome, the State Government instead taking a more constructive partnering approach with Local Government to further enhance the capability of councils to achieve efficiencies and to limit the detrimental impact of cost shifting and other financial burdens by State Government on local councils (e.g. the Waste Levy, which the State Government increased by 15% for all councils this financial year).
- Recognises the long, challenging and successful period of adjustment made by South Australian councils following the Local Government Association's Financial Sustainability Review in 2006.
- Highlights the responsible approach it is already taking in long term financial planning, asset management planning and achieving annual budgeted efficiencies despite the cumulative impact of State Government cost shifting and other financial burdens.
- Recognises and supports the transparency, benefits and socio-economic prosperity that currently arise from decisions being made at a local level by democratically

elected councils, especially those made following extensive consultation with local communities relating to council strategies, plans, services, annual budgets and rate rises.

- Supports the Local Government Association using its best endeavours to secure the best possible outcome for local government and the communities they serve.

4. OPTIONS

Council has the following options:

- I. To resolve to oppose the Bill for the reasons outlined within this report (Recommended).
- II. To determine not to support the Bill (Not Recommended).

5. APPENDICES

- (1) *Local Government (Rate Oversight) Amendment Bill 2018*
- (2) Letter from the Hon Stephan Knoll MP
- (3) Explanatory Paper – *Local Government (Rate Oversight) Amendment Bill 2018*
- (4) LGA Special Meeting Agenda 13 July 2018
- (5) Presentation – Institute for Public Policy & Governance
- (6) Email from David O'Loughlin – President Australian Local Government Association

Appendix 1

Local Government (Rate Oversight) Amendment Bill
2018

South Australia

Local Government (Rate Oversight) Amendment Bill 2018

A BILL FOR

An Act to amend the *Local Government Act 1999*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Local Government Act 1999*

- 4 Amendment of section 3—Objects
- 5 Amendment of section 123—Annual business plans and budgets
- 6 Insertion of Chapter 10 Part 1A

Part 1A—Rate oversight

- 187C Objects of Part
 - 187D Interpretation
 - 187E Primary rate cap determinations
 - 187F Rate cap variation determinations
 - 187G Rate cap variation determination applications
 - 187H Publication of Ministerial requests and directions
 - 187I Council must notify ESCOSA of certain matters
 - 187J Compliance with rate cap determinations
 - 187K Administration
 - 7 Amendment of section 273—Action on report
 - 8 Amendment of section 303—Regulations
 - 9 Review
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Local Government (Rate Oversight) Amendment Act 2018*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Local Government Act 1999*

4—Amendment of section 3—Objects

Section 3(f)—after "communities" insert:

- 15 and to provide for appropriate financial contributions by ratepayers to those services and facilities

5—Amendment of section 123—Annual business plans and budgets

Section 123—after subsection (2) insert:

- (2a) A council must ensure that, if relevant, an annual business plan also contains a statement—
- (a) that the council intends to apply for a rate cap variation determination to increase the primary rate cap determination applying to the council for the financial year under Chapter 10 Part 1A; or
 - (b) that the council has made an application to ESCOSA for a rate cap variation determination but that a determination has not been made in relation to the application; or
 - (c) that a rate cap variation determination made by ESCOSA for the financial year applies to the council.

6—Insertion of Chapter 10 Part 1A

Chapter 10—after Part 1 insert:

Part 1A—Rate oversight

187C—Objects of Part

The objects of this Part are to ensure—

- (a) that the financial contribution of ratepayers to the provision of services and infrastructure by local government to meet the present and future needs of local communities is subject to appropriate oversight; and
- (b) that a council has the financial capacity to perform its duties and functions and exercise its powers.

187D—Interpretation

- (1) In this Part—

base standard rate—see subsection (2);

base year means the financial year before the capped year;

capped standard rate see subsection (3);

capped year means the financial year specified in a primary rate cap determination;

ESCOSA means the Essential Services Commission established under the *Essential Services Commission Act 2002*;

primary rate cap means the primary rate cap (expressed as a percentage) specified by ESCOSA in a primary rate cap determination;

primary rate cap determination—see section 187E(1);

rate cap variation determination—see section 187F(1);

varied rate cap means the varied rate cap (expressed as a percentage) specified by ESCOSA in a rate cap variation determination.

- (2) The **base standard rate**, in relation to a council, means the rate calculated in accordance with the following formula:

$$\text{BSR} = \frac{\text{Rb}}{\text{N}}$$

Where—

BSR is the base standard rate;

Rb is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 30 June in the base year;

N is the number of rateable properties within the area of the council as at 30 June in the base year.

- (3) The **capped standard rate**, in relation to a council, means the rate calculated in accordance with the following formula:

$$\text{CSR} = \frac{\text{Rc}}{\text{N}}$$

Where—

CSR is the capped standard rate;

Rc is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 1 July in the capped year;

N is the number of rateable properties within the area of the council as at 1 July in the capped year.

187E—Primary rate cap determinations

- (1) ESCOSA may, on its own initiative or at the request of the Minister, by notice in the Gazette, determine that the capped standard rate for a specified financial year must not exceed the base standard rate by more than the primary rate cap specified in the notice (a **primary rate cap determination**).
- (2) A primary rate cap determination may apply to—
- councils generally; or
 - a class of councils; or
 - a particular council.
- (3) Before making a primary rate cap determination that is to apply to councils generally or a class of councils, ESCOSA must consider the following:
- the basis of the primary rate cap (for example, a relevant price or cost index);

- 5
- (b) whether the primary rate cap should include an efficiency or productivity component;
 - (c) the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);
 - (d) any matter that the Minister directs ESCOSA to consider;
 - (e) any other matter considered relevant by ESCOSA.
- (4) The following provisions apply to the making of a primary rate cap determination that is to apply to a particular council:
- 10
- (a) ESCOSA may only make a primary rate cap determination that is to apply to a particular council if ESCOSA considers it appropriate to do so taking into account—
 - (i) the council's record of compliance with 1 or more previous primary rate cap determinations or rate cap variation determinations; or
 - 15
 - (ii) a proposal by the council to—
 - (A) change the basis on which rates are assessed against land under section 148; or
 - (B) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155 in relation to a financial year; or
 - 20
 - (iii) the level of other fees or charges imposed or proposed to be imposed by the council other than under Part 1; or
 - 25
 - (iv) any other matter that ESCOSA thinks fit;
 - (b) before making a primary rate cap determination that is to apply to a particular council, ESCOSA must—
 - (i) consider the following:
 - 30
 - (A) the matter or matters set out in subsection (4)(a)(i) to (iv) based on which ESCOSA considers it appropriate to make the determination;
 - (B) if ESCOSA proposes to make a primary rate cap determination that is to apply to councils generally for the relevant financial year, the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);
 - 35
 - (C) any matter that the Minister directs ESCOSA to consider;
 - 40
 - (D) any other matter considered relevant by ESCOSA; and

- (ii) give the council a reasonable opportunity to make submissions in relation to the proposed determination.

(5) A primary rate cap determination does not have effect in relation to a capped year unless it is published in the Gazette—

- (a) on or before 31 December in the financial year before the capped year; or
- (b) on or before another date specified by ESCOSA by notice in the Gazette in the financial year before the capped year.

(6) A primary rate cap under a primary rate cap determination may be a positive or negative amount.

187F—Rate cap variation determinations

(1) ESCOSA may, on application by a council the subject of a primary rate cap determination applying to councils generally or a class of councils, make a determination specifying a varied rate cap (being a cap that is different from the primary rate cap applying to the council under the primary rate cap determination) for 1 or more specified financial years (up to a maximum of 5 years) (*a rate cap variation determination*).

(2) ESCOSA may only make a rate cap variation determination on an application under this section if satisfied that the varied rate cap is appropriate, having regard to—

- (a) the matters set out in section 187G(2); and
- (b) the council's record of compliance with any previous primary rate cap determination or rate cap variation determination; and
- (c) whether requirements given by ESCOSA under section 29 of the *Essential Services Commission Act 2002* relating to the council giving information relevant to the application (if any) have been complied with; and
- (d) any matter that the Minister directs ESCOSA to consider; and
- (e) any other matter determined by ESCOSA.

(3) If ESCOSA makes a rate cap variation determination under this section, ESCOSA must publish a notice in the Gazette specifying—

- (a) the fact that a rate cap variation determination has been made; and
- (b) the council to which the rate cap variation determination applies; and
- (c) the varied rate cap applying under the rate cap variation determination (which may be the varied rate cap proposed by the council or another cap set by ESCOSA); and

- (d) each financial year to which the varied rate cap applies.
- (4) A varied rate cap under a rate cap variation determination may be a positive or negative amount.

187G—Rate cap variation determination applications

- (1) An application by a council for a rate cap variation determination must—
 - (a) be made by—
 - (i) 31 March before the first capped year to which the application relates; or
 - (ii) by such other date fixed by ESCOSA by notice in the Gazette; and
 - (b) be made in the form and manner determined by ESCOSA; and
 - (c) be accompanied by the fee determined by ESCOSA, which must not exceed the reasonable costs of determining the application.
- (2) The application must specify—
 - (a) the number of financial years (up to a maximum of 5 years) that the council proposes that it be subject to a rate cap variation determination; and
 - (b) the proposed varied rate cap for each specified financial year; and
 - (c) the reasons the council seeks a varied rate cap; and
 - (d) the community engagement process that has been undertaken by the council on the proposed varied rate cap; and
 - (e) the likely impact of the proposed varied rate cap on ratepayers, including their capacity and willingness to pay rates in accordance with the proposed varied rate cap; and
 - (f) whether consideration has been given to reprioritising proposed spending measures and alternative funding options and, if so, why those options are not adequate; and
 - (g) how the varied rate cap represents value for money for the council and its ratepayers and promotes the efficient use of council resources; and
 - (h) how the proposal is consistent with the council's long term financial plan and infrastructure and asset management plan under Chapter 8 Part 1; and
 - (i) any other information required by ESCOSA.

- (3) A council must, as soon as is reasonably practicable after making an application for a rate cap variation determination, publish a copy of the application (including any accompanying information and documents) on its website.

187H—Publication of Ministerial requests and directions

- (1) If the Minister makes a request under section 187E(1), ESCOSA must publish a copy of the request on its website as soon as is reasonably practicable after its receipt.

- (2) If the Minister gives—

- (a) a direction under section 187E(3)(d) or (4)(b)(i)(C); or
(b) a direction under section 187F(2)(d),

ESCOSA must publish a copy of the direction on its website as soon as is reasonably practicable after its receipt.

187I—Council must notify ESCOSA of certain matters

- (1) A council must not—

- (a) change the basis on which rates are assessed against land under section 148; or
(b) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155,

unless the council notifies ESCOSA, in the manner and form determined by ESCOSA, of the proposal before 31 October of the year before the first financial year in which the change, rate or charge (as the case may be) is to apply.

- (2) If a council notifies ESCOSA under subsection (1) of a—

- (a) proposed change of a kind referred to in subsection (1)(a); or
(b) proposed rate or charge of a kind referred to in subsection (1)(b),

the council must provide ESCOSA with any information or document required by ESCOSA in relation to the change, rate or charge (as the case requires).

- (3) A failure to comply with this section does not affect the validity of any of the following rates or charges recoverable under this Chapter (or any fine or interest relating to such rates or charges):

- (a) a rate or charge assessed against land on a changed basis of a kind referred to in subsection (1)(a); or
(b) a separate rate, service rate or annual service charge of a kind referred to in subsection (1)(b).

187J—Compliance with rate cap determinations

- (1) A council must comply with a primary rate cap determination.

(2) If a rate cap variation determination is made in respect of a council—

(a) the rate cap variation determination applies to the council for the financial year or years specified in the determination (instead of the primary rate cap determination applying during that year or those years); and

(b) the council must comply with the rate cap variation determination.

(3) A failure to comply with a primary rate cap determination or a rate cap variation determination does not affect the validity of any rate, charge, interest or fine recoverable under this Chapter in respect of the financial year in relation to which the failure occurred.

187K—Administration

(1) ESCOSA has such functions and powers as are necessary or expedient to give effect to this Part, including the following functions:

(a) to monitor and review councils' compliance with this Part and, in particular, to monitor and review compliance with primary rate cap determinations and rate cap variation determinations;

(b) to assess the effect of primary rate cap determinations and rate cap variation determinations on the provision of services and infrastructure by councils and the sustainability of the financial performance and position of councils;

(c) to identify trends across the local government sector arising from the operation of primary rate cap determinations and rate cap variation determinations, and any other impacts arising from the operation of this Part.

(2) ESCOSA must, in relation to each financial year, give an annual report to the Minister on the compliance of councils with any primary rate cap determination and rate cap variation determination applying in that year.

(3) ESCOSA must prepare a biennial report on—

(a) the matters referred to in subsection (1)(b) and (c); and

(b) any other matter relating to the operation of this Part that ESCOSA considers appropriate.

(4) A report under subsection (3) must be given to the Minister within 3 months after the end of the second financial year to which the report relates.

(5) The Minister must cause a copy of a report given to the Minister under this section to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

- (6) ESCOSA may, as soon as is reasonably practicable after giving a report under this section to the Minister, publish a copy of the report on its website.

7—Amendment of section 273—Action on report

Section 273(1)—after paragraph (c) insert:

; or

- (d) a report of ESCOSA under Chapter 10 Part 1A,

8—Amendment of section 303—Regulations

- (1) Section 303(8a)—delete "additional"

- (2) Section 303(8a)—delete "enactment of the *Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015*" and substitute:

amendment of this Act by another Act

9—Review

- (1) The Minister responsible for the administration of the *Local Government Act 1999* must cause a review of the operation of Chapter 10 Part 1A of that Act (as to be inserted into the *Local Government Act 1999* by section 6 of this Act) to be conducted and a report on the results of the review to be prepared and submitted to the Minister.

- (2) The review and report must be completed by 31 December 2023.

- (3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

Appendix 2

Letter from the Hon Stephan Knoll MP

Mr Bill Spragg
Mayor
Adelaide Hills Council
Via email

Dear Mayor Spragg

As you are aware, our Government was elected with a strong commitment to introduce a rate capping scheme into South Australia to assist and support our households and businesses.

In line with this commitment, I will be introducing the Local Government (Rate Oversight) Amendment Bill 2018 into Parliament this week, with the intention to have a rate capping system operational for the 2019-2020 financial year.

This Bill will deliver the two fundamental objectives of rate capping – firstly, ensuring that council rate increases are subject to strong oversight by both an independent regulator and ratepayers, and secondly, that all councils have the financial capacity to perform their duties and functions as their communities expect.

The Bill therefore includes three key elements:

1. **Primary rate cap determinations:** provisions enabling a cap to be set, determining that the cap applies to council revenue recoverable from general rates, and providing for its annual calculation based on a 'base standard rate' for councils to capture growth in rateable properties from year to year
2. **Variation applications:** provisions that enable councils to apply for a variation of the rate cap, by demonstrating engagement with their community on the proposal, and that a variation is necessary within the context of the council's operations and long term financial planning.
3. **Monitoring and reporting:** provisions that enable monitoring and reporting on the rate oversight system, to ensure both compliance and understanding of the effect of rate oversight on councils.

The Government has a strong commitment to the independence and transparency of the rate oversight system. Accordingly, the Bill proposes that the Essential Services Commission of South Australia (ESCOSA) be tasked to deliver the key elements of the system: determining the rate cap; accepting and assessing applications for a variation on the cap; and undertaking necessary monitoring and reporting on the system.

I am of course aware of the vital importance of this legislation to all councils and their communities, and have therefore attached both the Bill and an Explanatory Paper. These documents are also available at:

https://www.dpti.sa.gov.au/local_govt/publications

This will enable your Council to make comments on the Bill (through the Office of Local Government website above). As the Bill will be introduced very shortly, I also clarify that I will consider these comments, and may amend the Bill if I deem it necessary.

While the legislative framework is essential to establishing rate capping, many of the details of the rate oversight system that will be of most interest to councils, including the application process for variations on the cap, will be established through non-statutory mechanisms, such as guidelines to be published by ESCOSA.

The Government has therefore tasked ESCOSA to develop advice and guidelines that will explain the expected basis of the rate cap, support councils' compliance with the application of the cap, and detail the process by which applications for variations on the cap may be made, received and assessed.

This work will be completed over 2018, and will provide a further opportunity for your Council to engage with the detail of the proposed rate oversight system.

I look forward to engaging with your Council and the local government sector more widely as we develop a practical and effective rate oversight system for South Australia.

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Knoll', with a stylized, flowing script.

HON STEPHAN KNOLL MP
MINISTER FOR TRANSPORT, INFRASTRUCTURE AND LOCAL GOVERNMENT

18 June 2018

Appendix 3

*Explanatory Paper – Local Government (Rate Oversight)
Amendment Bill 2018*

Explanatory Paper

Local Government (Rate Oversight) Amendment Bill 2018

June 2018



Government of South Australia

Department of Planning,
Transport and Infrastructure

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INTRODUCTION

The Local Government (Rate Oversight) Amendment Bill 2018 (the Bill) introduces a rate oversight scheme into the *Local Government Act 1999* (the Act). This Explanatory Paper is intended to be read in conjunction with the Bill, to provide further details on the intent and application of the Bill's provisions.

The Bill chiefly amends Chapter 10 of the Act to insert Part 1A—Rate oversight that provides for the establishment, operation and reporting of a system to cap annual increases in councils' general rates.

KEY ELEMENTS OF THE BILL

The Bill provides a rate oversight framework that establishes three key elements—

1. **Primary rate cap determinations:** the establishment of a rate cap — provisions enabling a cap to be set, determining that the cap applies to council revenue recoverable from general rates, and providing for its calculation on an annual basis for all councils, classes of councils or particular councils.
2. **Variation applications:** setting out provisions that enable councils to apply for a variation of the rate cap, by demonstrating engagement with their community on a variation and that a variation is necessary within the context of the council's operations and long term financial planning.
3. **Monitoring and reporting:** setting out provisions that enable monitoring and reporting on the rate oversight system, to ensure both compliance and understanding of the effect of rate oversight on councils.

INDEPENDENT REGULATOR

In accordance with the Government's policy that the rate oversight system will be managed by an independent regulator, the Bill appoints the Essential Services Commission of South Australia (ESCOSA) as the body responsible for—

1. Making rate cap determinations.
2. Receiving and assessing applications from councils for variations on the rate cap.
3. Reporting on compliance and the outcomes of the system to the Minister on a regular basis.

It should be noted that while the Bill provides the statutory framework necessary for a rate oversight system, detail necessary for the operation of the system will be contained within guidance material produced by ESCOSA. This will include—

1. Guidance on compliance with the rate cap (including guidance on how councils should calculate annual rate revenue that incorporates the cap, the calculation of a council's total annualised revenue).
2. Requirements for council applications for variations on the cap, and guidance on the assessment process for these applications.

3. Requirements for information and other material from councils to enable ESCOSA to undertake necessary monitoring and reporting.

THE PROVISIONS OF THE BILL

Part 1 – Preliminary

Part 1 of the Bill contains preliminary information about the short title of the Bill, commencement (the Act will come into operation on a day to be fixed by proclamation) and amendment provisions.

Part 2 – Proposed amendment of *Local Government Act 1999*

Part 2 of the Bill contains the substantive provisions to amend the Act.

Clause 4—Amendment of section 3—Objects

The Bill amends the objects of the Act, specifically section 3(f) of the Act to clarify that the objects of the Act are to encourage local government to provide appropriate services and facilities to meet the present and future needs of local communities while also ensuring that these are supported by appropriate financial contributions by ratepayers.

Clause 5—Amendment of section 123—Annual business plans and budgets

These clauses amends section 123(2) of the Act to ensure that an annual business plan and budget released by a council states that the council has applied for or has received a rate cap variation for that financial year, if this is the case.

Clause 6—Insertion of Chapter 10 Part 1A

This clause of the Bill proposes the inclusion of Part 1A to Chapter 10 of the Act — Rates and Charges. Accordingly, inserted sections 187C–187K of the Bill contain most of the detail of the rate oversight system.

187C — Objects of Part

The objects of the proposed Part 1A rate oversight clarify the purpose of the rate oversight system; namely to ensure that the financial contributions of ratepayers to the provision of services and infrastructure are subject to appropriate oversight (the cap) and also to ensure that a council has the financial capacity to perform its duties and exercise its powers (the ability of councils to apply for a variation on the cap).

187D — Interpretation

This section sets out definitions for the various terms and phrases used throughout the Bill.

Of particular note are the definitions (and formulas) of the terms ‘base standard rate’ and ‘capped standard rate’, which form the basis of the calculation of the cap each year by councils. This is explained further in the next section.

187E — Primary rate cap determination

This section stipulates that ESCOSA may, on its own initiative, or at the request of the Minister, make a ‘primary rate cap determination’ for each financial year – referred to below as the ‘the primary rate cap’.

The primary rate cap must be set by 31 December each year, or by another date set by ESCOSA in the South Australian Government Gazette (the Gazette). ESCOSA must also publish primary rate caps in the Gazette. A primary rate cap may apply to all councils, a class of councils, or a particular council.

Before determining a primary rate cap, ESCOSA must consider a range of matters. These include what the basis of the cap should be (which may be a relevant price or cost index), and whether the cap should include any form of efficiency or productivity element.

The Bill does not require ESCOSA to use a particular index—such as the Consumer Price Index (CPI) or the Local Government Price Index (LGPI)—as the basis for a primary rate cap. This is a matter of discretion for ESCOSA as the independent regulator.

Under the primary rate cap, councils’ capped standard rate for a specified financial year must not exceed the base standard rate by more than the primary rate cap specified in ESCOSA’s determination. In this context (as the formulas in section 187D sets out), the base standard rate is a nominal rate that is arrived at by dividing the total annualised revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June immediately before the financial year to be capped).

The intent of the application of the cap to the base standard rate, and the calculation of ‘total annualised revenue’ is to ensure that growth in rateable properties over the year prior to the capped year (the base year) are fully incorporated within the calculation of each year’s primary rate cap. This recognises that growth in rateable property numbers results in additional cost pressures for councils, and should ensure that growth councils do not have to apply for a variation on the rate cap for this to be recognised.

As noted above, section 187E(4) allows ESCOSA to make a primary rate cap determination that applies to a particular council. However, it is expected that ESCOSA would only set a primary rate cap for a council in particular circumstances, not as a usual practice. The Bill therefore proposes that ESCOSA may do this in response to non-compliance with the primary rate cap, in response to a council’s introduction of a service rate or charge or separate rate or use of other council fees and charges, or for any other reason that ESCOSA considers appropriate.

If ESCOSA is considering making a primary rate cap for a particular council, it must also give the council a reasonable opportunity to make submissions in relation to the proposed determination. If a council receives a primary rate cap under this section, that council may not apply for a variation of the cap (see section 187F(1)).

187F — Rate cap variation determinations

Along with the setting of a primary rate cap, an ability for councils to apply for a variation on a primary rate cap is critical to achieving the objectives of the rate oversight system.

Section 187F therefore enables ESCOSA to receive and assess applications for a variation of a primary rate cap from councils that are subject to a primary rate cap that applies to all councils or a class of councils. Applications must be received by ESCOSA by 31 March of the year before the capped year, unless ESCOSA sets another date in the Gazette.

187G — Rate cap variation determination applications

While ESCOSA will act independently in its assessment of variation applications, the Bill proposes a number of criteria that ESCOSA must have regard to. These are set out in section 187G(2) and include matters that a council's application must specify, such as—

- The council's proposed varied rate cap, and what years council proposes that it applies to (this can be for a maximum period of up to five years).
- The reasons for the variation application.
- The community engagement process that the council has undertaken, to inform and engage with its community on the proposed variation. It is not intended that councils will have to demonstrate explicit community support (through polling or other measures); rather, that it must be clear that the council has made every effort to explain to its community the necessity for the variation, and that there is wide understanding of these reasons.
- The council's views of the likely impact of the proposed variation on ratepayers, which may be informed by the community engagement process.
- How the council has considered alternatives to a variation, which may be the reprioritisation of spending, or the use of alternative funding mechanisms (including the appropriate use of debt, or of council reserves).
- How the variation represents value for money for the council and its ratepayers, and promotes the efficient use of council resources. This reflects the expectation that councils should seek to make efficiencies across their operations before seeking a variation.
- How the proposal is consistent with the council's long term financial plan and infrastructure and asset management plan. All South Australian councils are required to have these plans in place, and they will be a critical component of an application for a variation as clear demonstrations of a council's need for additional revenue.

Councils will also be required to publish their application for variation on their website.

187H — Ministerial requests and directions

While the Bill proposes that the rate oversight system is managed by an independent regulator (ESCOSA), the Minister can direct ESCOSA to consider a matter when ESCOSA is considering—

- A primary rate cap determination: section 187E(3)(d).
- A primary rate cap determination that will apply to a particular council: section 187E(4)(b)(i)(C).
- Applications for a rate cap variation determination: section 187F(2)(d).

Additionally, the Minister may request ESCOSA to determine a primary rate cap under section 187E(1).

While the Minister may request or direct ESCOSA to consider matters in these circumstances, ESCOSA will maintain its discretion as to whether to act. Section 187H also requires ESCOSA to publish copies of any Ministerial request direction on its website, to ensure the appropriate level of transparency.

187I — Council must notify ESCOSA of certain matters

Under the Act, councils have four main sources of revenue: general rates (declared under section 153 of the Act); separate rates (section 154 of the Act); service rates and charges (section 155 of the Act); and fees and charges (section 188 of the Act).

The rate oversight system proposes that a primary rate cap would apply to general rates only. This recognises that both separate rates and service rates and charges are already restrained within the Act, as they can only raise sufficient revenue to cover the cost of the relevant purpose or prescribed service.

Councils will be required to inform ESCOSA if they are planning to introduce a separate rate or a service rate or charge. ESCOSA may then consider the application of a primary rate cap for that council, if ESCOSA are of the view that this is needed to prevent an effective rate increase above the cap.

As is noted above, ESCOSA also has the ability to consider a primary rate cap for a particular council if ESCOSA is of the view that a council is utilising the application of fees and charges under section 188 of the Act unreasonably.

Additionally, councils will be required to notify ESCOSA if they plan to change their basis of rating from rating on title to rating on occupancy, or vice versa, as this may have a material impact on the calculation of the rate cap for that council.

187J — Compliance with rate cap determination

This section requires councils' compliance with any rate cap determination made by ESCOSA. The Bill also proposes an amendment to section 273 of the Act, to enable the Minister to take action on a report made by ESCOSA under this Chapter 10 Part 1A of the Act.

It is therefore anticipated that the Minister would make recommendations or directions to a council in instances of non-compliance, and, if the non-compliance is sufficiently serious, to recommend to the Governor that the council be declared defaulting.

187K — Administration

This section provides ESCOSA with powers to perform the functions that ESCOSA will be responsible for in the rate oversight system. Additionally, ESCOSA will be required to—

- Monitor and review councils' compliance with the system; and make annual reports to the Minister on this compliance.
- Assess the effect of rate capping (both the primary rate cap and variations) on councils, and identify any trends that may arise from the application of the rate oversight system across local government. ESCOSA will make a report on these matters to the Minister every two years.

Reports received by the Minister from ESCOSA must be laid before the Houses of Parliament, and may also be published on ESCOSA's website.

Clause 7—Amendment of section 273 — Action on report

As noted in the discussion on section 187J, this clause amends section 273 of the Act to include ESCOSA as a body that can make reports that may result in Ministerial action towards a council.

Clause 8 — Amendment of section 303 — Regulations

This amends the Act to enable regulations to be made that may be necessary to deal with saving or transitional matters related to this Bill.

Clause 9 — Review

This clause requires the Minister responsible for the Local Government Act to review the legislation that establishes the rate oversight system before 31 December 2023 (expected to be after five years of the operation of the legislation).

Appendix 4

LGA Special Meeting Agenda 13 July 2018


Notice of Meeting

**Notice is hereby given that a LGA Special General Meeting
will be held on**

Friday 13 July 2018 at 12.30pm

In the Adelaide Town Hall

128 King William Street, Adelaide



Matt Pinnegar
Chief Executive Officer

5 July 2018

Agenda

Item	Page
1. Open & Welcome	
2. Apologies	
3. Notice & Arrangements	
4. Discussion Reports from the LGA Board	
4.1 Local Government (Rate Oversight) Amendment Bill 2018	3
5. Next Meeting	
The LGA Annual General Meeting will be held on Friday 26 October 2018 at Adelaide Entertainment Centre, 98 Port Road Hindmarsh.	
6. Close	

4.1 Local Government (Rate Oversight) Amendment Bill 2018

Discussion Reports from the LGA Board

From:	Matt Pinnegar, Chief Executive Officer		
Key Initiative:	K.I 1 Leadership and advocacy		
Strategy:	1B Contribute to state-wide and local policy		
Meeting	Special General Meeting	13 July 2018	
ECM:	662513	Attachment: 661596, 659207, 662329	

Recommendation

That the Special General Meeting

1. notes the report;
2. notes the policy position unanimously adopted by LGA Members at the 2016 Ordinary General Meeting that decisions concerning council rates are better informed, and the impacts better understood, when made by the respective councils in consultation with their communities;
3. requests that all South Australian councils carefully review the Local Government (Rate Oversight) Amendment Bill 2018 and advise the Local Government Association by Friday 3 August 2018 of the council's endorsed position based on the following options:
 - a. Council supports the Local Government (Rate Oversight) Amendment Bill 2018; or
 - b. Council opposes the Local Government (Rate Oversight) Amendment Bill 2018.
4. supports the LGA using best endeavours to secure the best possible outcome for local government and the communities they serve and requests that councils provide to the LGA a list of the priority issues, amendments and concessions they would seek to address in the LGA's discussions with political parties about this rate capping legislation;
5. notes that the Local Government Association Board will hold a special meeting to consider the endorsed positions of member councils; and
6. notes that the LGA Board will consider the matter on the basis of both a 'one vote, one value' counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings). The Board will also use identified criteria to inform and resolve a position.

Discussion

The state government introduced the Local Government (Rates Oversight) Amendment Bill 2018 in the House of Assembly on 20 June 2018 following a Liberal Party election commitment to introduce rate capping legislation in the Parliament within their first 100 days of government.

Rate capping became a policy of the Liberal Party (SA Branch) in 2014. The LGA has undertaken extensive research on council rate capping policies and their impacts in other jurisdictions. On the basis of the evidence that rate capping results in negative impacts on communities, a majority of LGA member councils have consistently voted to oppose the introduction of rate capping in South Australia.

As a result of this sector-wide policy position, the LGA has undertaken a range of advocacy, policy and reform activities to highlight the problems with rate capping while developing alternative reforms that will deliver benefits and value for communities. These activities are summarised within this report.

This report also provides analysis of the Local Government (Rates Oversight) Amendment Bill 2018 and identifies some of the key issues that councils are encouraged to consider in developing a position on this proposed legislation.

It is not intended that councils will make a decision at this Special General Meeting about their position on the proposed legislation. Rather, the intent of this meeting is to discuss a suite of options that can be formally considered by members at their council meetings to make an informed decision about whether to accept or reject this rate capping legislation.

Background

The following commentary provides an overview of key events and issues in recent years.

- Rate capping was first proposed by the Liberal Party prior to the 2014 State Election. On the basis of a long standing existing LGA policy that '*State Governments must not interfere with the autonomy of Local Government by imposing limits on rating*', the LGA publicly opposed this policy and has been consistent in opposing rate capping.
- In May 2015, there was a Parliament of South Australia Economic and Finance Committee Inquiry into Rate Capping. The LGA, and a number of councils, made submissions and gave evidence to the inquiry highlighting the negative impacts that rate capping has had on communities and councils interstate.
- The South Australian Economic and Finance Committee handed down its final report in July 2016 and its recommendation was that councils should continue to set rates after full consultation with their communities and that rate capping should not be introduced in South Australia. The Liberal Party members of the Committee handed down a minority report in support of their pre-election commitment to introduce rate capping.
- The former Shadow Minister for Local Government, Steven Griffiths MP introduced a Private Members Bill into the Parliament in March 2016 for a rate capping system in South Australia. The Bill was defeated in the House of Assembly after being opposed by the Labor Government on the basis that rate capping is poor public policy and the Bill lacked merit.
- In 2017, the Liberal Party again tried to introduce a rate capping scheme by proposing amendments to the Local Government (Boundary Adjustment) Amendment Bill. The proposed amendments were not allowed to be introduced on the basis that they did not relate to the primary subject of the Bill.
- The Liberal Party formed a majority government following the March 2018 State Election and has followed through on their commitment to introduce rate capping legislation in the Parliament within their first 100 days of Government.
- Legislation that is not supported by the Opposition will require the support of 3 out of 5 crossbench members in the Legislative Council. Labor, SA-BEST and the Greens took an anti-rate capping policy to the 2018 state election.

LGA Advocacy

With support from the majority of members, the LGA launched a three-phase, sector-wide campaign in December 2016 to raise awareness of the services provided by councils, how they contribute to the everyday life of South Australians, and the risks to local services and local decision making from rate capping. This campaign followed the unanimous vote of the LGA members present at the Ordinary General Meeting held in April 2016 to oppose rate capping and a formal resolution by some 50 councils to support an LGA-led public campaign against rate capping.

Policy and Reform

As reported to members at the Ordinary General Meeting in November, the LGA has undertaken extensive research to provide an evidence base to policy positions and reform options relating to rate capping. This work has informed the development of advocacy through submissions, correspondence and media. The numerous actions undertaken by the LGA are summarised as follows:

- LGA submission to the South Australian Parliament's Economic and Finance Committee Inquiry into Rate Capping (2015);
- Collecting evidence into the impact of rate capping in New South Wales and Victoria, including reports of the Parliament of Victoria's Environment and Planning Committee Inquiry into the Rate Capping Policy;
- Research and third-party reports such as the *Empirical Assessment of the Impact of Rate-Pegging on South Australian Local Government (Dollery)* report. This report found that SA local government (without rate-capping) has performed much better than NSW (with rate-capping) and concluded that there is no practical basis for introducing rate-capping into SA local government;
- A comparative study of fees and charges applied by councils in Victoria and New South Wales with those applied by South Australian councils;
- A 10-year data study of council rates in South Australia. This data shows that while on average the increase in council rates was higher than CPI or LGPI, the average rate per property was well below price index trends prior to 2010. This suggests that some councils were conservatively rating between 2005 and 2010;
- Scoping, consulting on and promoting a local government reform package as part of the LGA's state election campaign, to provide a sensible alternative to rate capping;
- Analysis of the SA Liberal Party's rate capping policy and failed 2016 Bill to amend the Local Government Act 1999, including third party analysis by local government academic, Dr Joseph Drew from the University of Technology Sydney;
- Creation of a rate capping information page on the LGA website to provide a one-stop-shop for information relating to policy;
- Presentation by Municipal Association of Victoria (MAV) Vice President Cr David Clark at the 2017 LGA Conference on rate capping in Victoria and its impact on councils;
- Panel session at the 2017 LGA Conference with party leaders and cross-bench members all confirming their opposition to rate capping;
- Multiple briefings to all political parties on the negative impacts of rate capping in communities;
- Correspondence to party leaders and candidates in the 2018 State Election on rate capping and cost shifting, including an informative and evidence-based rate capping information pack;

- Correspondence to all political parties seeking commitments on the future of discretionary council services under a future rate capping regime. These letters also highlight the impact of cost shifting on councils and rate payers;
- Correspondence to the Federal government to highlight the additional pressure that state government imposed rate capping policies place on federal resources;
- A motion developed with the City of Maribyrnong (Victoria) to condemn rate capping policies passed by the ALGA National General Assembly including a photo opportunity with councils from around Australia uniting to oppose council rate capping with the '*don't cap our communities*' message;
- Briefing papers on local government rate setting provided to every electorate office in South Australia in 2017 with the offer for electorate staff to meet with LGA staff for further information; and
- Correspondence, meetings and discussions with key stakeholder groups that would be impacted by the introduction of rate capping in South Australia.

South Australia Economic and Finance Committee Inquiry

As outlined previously in this report, the Parliament of South Australia's Economic and Finance Committee initiated an inquiry into Local Government Rate Capping policies in 2015. Submissions were made by 11 South Australian councils and the Local Government Association. A copy of the LGA's submission can be downloaded [here](#).

Local Government Submissions

Some of the key issues raised by local government in submissions and evidence to the Inquiry included the following:

Local democracy means local decision making

- Council members are elected by the community to make local decisions, and the community holds them to account through the democratic council elections process.
- Setting rates in consultation with the community is the most important local decision made by councils each year.
- Councils work with their communities to strike a balance between expenditure, revenue and service standards.
- Any externally imposed rate cap will reduce a Council's capacity to get this balance right.
- Handing decision making to an un-elected state-wide regulator diminishes local democracy and local decision making.

Rate capping risks declining service standards and intergenerational cost shifting

- Councils raise sufficient revenue to pay for the services and facilities expected by (and used by) the current generation; and comply with State and Federal Government legislation, policy and other requirements.
- Without access to sufficient revenue to meet community needs and preferences for services, councils would have to either:
 - Reduce or cut funding for community services, including maintenance of infrastructure; e.g. lower-quality roads; and/or
 - defer part-payment to future generations;
- Some pressures are totally outside councils' control. Legislation continually imposes either greater costs on councils, and/or restrains councils' power to charge fees to effect cost recovery for mandated legislated activities.

Rate capping increases red tape and does not improve cost of living

- In NSW (and now Victoria also) rate capping comes at a significant cost to councils and involves complexity, costs and constraints at both council and State level to administer.
- The Independent Local Government Review Panel (NSW) reported that as a result of rate capping the financial sustainability of many Councils and their capacity to deliver community services had declined, and a significant number were near crisis point.
- In an environment of increasing cost pressures and community demand, councils interstate have increased rate-cap exempt fees and charges to cope with the impacts of the rate cap. This does not improve the cost of living for communities.

Final report

The Committee handed down its final report in July 2016, which included the following four (4) recommendations:

1. *Local Councils retain full authority to set their own rates and that no rate cap be introduced;*
2. *Local Councils continue to set rates after full consultation with their communities;*
3. *Councils be subject to a thorough auditing process under the auspices of the Auditor-General, consistent with section 36 of the Public Finance and Audit Act 1987; and*
4. *Councils be required to publish, on an annual basis, these audits.*

Appended to the report was a contrasting minority report authored by David Speirs MP, Stephan Knoll MP, and Vincent Tarzia MP. The minority report featured only a single recommendation:

1. *That a local government rate capping regime be introduced in South Australia to reduce cost pressures on households and property owners.*

The minority report dismissed the evidence of numerous witnesses about the negative effect of rate-capping in New South Wales, and the financial sustainability of local government in South Australia.

In supporting their case, the minority report assigned more contemporary weight to three reports:

- a report prepared by Price Waterhouse Coopers (PWC) in November 2006: *“National Financial Sustainability Study of Local Government”*; and
- the (2005) report of South Australia’s Financial Sustainability Review Board (FSRB) *“Rising to the Challenge”*
- Access Economics Pty Ltd (2006), *“Local Government Finances in New South Wales: An Assessment”* (AE report).

These reports all pre-dated financial sustainability reforms introduced in South Australia in 2006-07, and subsequently in other States, to address what was, at the time, the relatively inconsistent financial sustainability of local government.

Both the Financial Sustainability Review Board and Price Waterhouse Coopers reports effectively laid the groundwork for what became a significant reform and enhancement of local government financial and asset management across Australia.

Further Research- Impacts in Victoria and NSW

Since the 2015 Economic and Finance Committee submission was made, the LGA has continued to research the impacts of rate capping in Victoria and NSW to understand what a rate capping policy would mean for South Australian communities.

A summary of this research is attached to this report (ECM 661596), and includes information regarding:

- the caps that have been applied interstate and how they are calculated
- the cost of administering rate capping interstate
- services and programs that have been cut or reduced by Victorian councils as a result of rate capping
- considerations of the Parliament of Victoria's Inquiry into Rate Capping Policy
- the 2017 report by Professor Brian Dollery, '*An Empirical Assessment of the Impact of Rate-Pegging on South Australian Local Government*', which concluded that:
 1. There is no evidence to suggest that rate-capping will increase efficiency at councils
 2. Rate-capping leads to a decline in financial sustainability of councils
 3. SA councils perform better than NSW local government on three key issues:
 - Reliance on rate revenue as income
 - Financial sustainability
 - Efficiency

This research has been used by the LGA to inform discussions with political parties and stakeholders about the lack of public policy merit and potential risks of rate capping being introduced in South Australia.

Local Government Reform- Alternative Options

While the LGA's policy position has consistently been to oppose rate capping, this should not be mistaken as opposition to reform in local government. The LGA has worked with member councils to identify opportunities to address community expectations about strengthening and enhancing transparency, accountability and engagement.

The LGA advocated during the state election campaign for sensible local government reforms that will have a positive impact on communities. These reforms include:

- Implementing a state-wide benchmarking program
- Ensuring high standards from elected members through a stronger code of conduct
- Giving broader responsibilities to more independent, skills-based audit committees
- Implementing measures to ensure that council's external audits are undertaken in a consistent manner and to a consistent standard
- Introducing a revenue policy to build community awareness of how council will raise the revenue required to fund community services and facilities
- Implementing a best practice service review process for councils to regularly review the costs and standards of the services provided to communities
- Implementing a sector-wide industrial relations framework to reduce duplicated costs and effort
- Supporting new processes for considering councils boundary changes and reviewing how representation reviews are undertaken
- Changes to local government elections, including a move towards electronic voting.

A copy of the LGA's local government reform agenda is provided as an attachment to this report (ECM 659207).

Analysis of the Bill

The LGA's preliminary analysis of the Bill is attached to this report (ECM 662329). This analysis provides an outline of the key elements of the Bill, as well as detailed commentary on potential issues and areas where further detail is required from the Government. The LGA appreciates that member councils are also carefully looking at the Bill and we will update our analysis further as more details and issues emerge.

Key elements of the Bill include:

- The Essential Services Commission of South Australia (ESCOSA) will be responsible for making rate cap determinations, assessing applications from councils for variations to the rate cap and reporting on the outcomes of the system.
- The details of how the rate cap will be determined will be subject to ESCOSA guidelines that are yet to be developed. The Bill gives ESCOSA flexibility to determine a formula that may, or may not, include a particular index (CPI, LGPI) and whether the cap will include any efficiency or productivity component.
- The cap will be applied to a 'base standard rate', which is a nominal rate that is arrived at by dividing the total annualized general rate revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June).
- While this model intends to account for growth in the number of rateable properties over the course of a year, some councils have indicated that this will require a closer look to ensure that growth in different types of land use are properly accounted for relevant to their council areas.
- A council may apply to ESCOSA for a variation from the rate cap for a maximum period of up to 5 years. In applying for a variation, councils will need to provide the reasons for the variation application, evidence of community consultation, an assessment of the likely impact on ratepayers.
- Councils will be expected to make efficiencies across their operations and undertake service reviews before applying for a rate cap and will need to demonstrate they have considered funding priorities and alternative sources of revenue.
- Further details of the variation process will be provided through ESCOSA guidelines that are yet to be developed.

Parliamentary Process

The Local Government (Rate Oversight) Amendment Bill has been introduced in the House of Assembly by the Minister for Local Government, Hon Stephan Knoll MP.

The Government holds the majority in the House of Assembly (lower house), so it is likely the Bill will progress to the Legislative Council (upper house) despite independent MPs in the lower house - Frances Bedford MP, Geoff Brock MP and Troy Bell MP - all publicly stating that they will vote against the legislation.

However, the Bill must pass in both Houses of Parliament to become law and the Government does not hold a majority in the Legislative Council.

If the Labor Party honours its pre-election commitment to oppose rate capping, the government must secure support from 3 out of 5 crossbench members in order for the Bill to pass.

The crossbench currently comprises 2 members from SA-BEST, 2 members from the Greens, and 1 member from Advance SA.

SA-BEST and Greens are both on record post-election opposing rate capping based on the detrimental impacts it has had interstate and its lack of policy merit. Therefore, the option of successfully opposing rate capping in the upper house remains available if this is ultimately the decision of the membership.

Council Decision Making

As outlined in the recommendation, all councils are requested to carefully review the Local Government (Rate Oversight) Amendment Bill 2018 and advise the LGA of their position by Friday 3 August 2018.

The LGA will provide councils with a model council report and proposed resolutions around the options of supporting or opposing the Bill. Councils will also be asked to clearly specify the priority amendments and concessions they would ask the LGA to use best endeavours to achieve in any negotiations with political parties about the legislation.

In seeking any amendments or concessions, councils must bear in mind that they will be subject to negotiations through the parliamentary process and that ultimately the Parliament will make the decision about whether the legislation is passed, and in what form.

Councils should also bear in mind that the State Government is yet to commit to any relief from the pressures of cost shifting, with significant rises to the Solid Waste Levy going ahead in 2018/19 despite strong advocacy from the LGA and councils.

Advice from councils about their endorsed position is requested by Friday 3 August to enable the LGA Board to finalise a position and advise political parties of the sector's response in preparation for the spring session of Parliament.

LGA Board Decision Making Process

Following the receipt of responses from councils by 3 August, a special meeting of the LGA Board will be called to consider the endorsed positions of member councils. As rate capping would impact on councils differently depending on size, services, budget and rate base; the LGA Board will consider the endorsed positions of member councils on the basis of both a 'one vote, one value' counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings). The Board will also use the following criteria to inform and resolve a position:

- A merits-based assessment of the proposed legislation;
- The best interests of the communities of South Australia and their confidence in the local government sector;
- Current LGA policy positions and whether there is a mandate from members for an amended policy to be adopted;
- Potential impacts on the long-term financial sustainability of the local government sector, and how any negative impacts could be mitigated;
- Potential amendments and concessions that are in the best interest of councils and the community they serve;
- Positions of political parties in the Legislative Council and the impact this would have on the outcomes that can feasibly be achieved through the parliamentary process; and
- The number of responses received and the number of councils that did not participate in the voting process.

Financial and Resource Implications

Advocacy on key issues for the sector, such as rate capping, cost shifting and progressing positive local government reforms has been anticipated in the LGA's 2018/19 Annual Business Plan and Budget and resources are available to progress this work.

Impact of rate capping on South Australian councils – evidence from Victoria and NSW

Increases in South Australian council rates

- In 2016-17 (the last full year), the percentage increase in general rate revenue for across all councils in South Australia was 3.68 percent¹.
- The percentage increase in the average rate per property was 2.9 percent.
- This includes upwards pressure from the Consumer Price Index (CPI) of 1.5% and the Local Government Price Index (LGPI) of 1.8% in 2016-17.
- The revenue from general rates also accounts for mandatory and discretionary rebates, write offs and remissions.

Rate-capping is an externally imposed maximum percentage council rates revenue may increase from one financial year to the next. In this form, it has been in place since 1977 in New South Wales and was re-introduced in Victoria in 2016.

The LGA SA has carefully studied the impacts of rate capping in New South Wales and Victoria and the evidence is clear:

1. Rate capping undermines local democracy, centralises decision making about council rate revenue and shifts accountability from community representatives to an unelected bureaucracy.

Should rate capping be introduced, it would impose an extra layer of bureaucracy and two extra decision makers – the Essential Services Commission of SA (ESCOSA) and the Minister for Local Government on top of what is already a legislative requirement for councils to consult with their communities. However, unlike Councils, neither ESCOSA nor the Minister would be directly accountable to the affected ratepayers.

The role of councils to work with communities to develop an annual business plan and budget would be duplicated at the state level, where a rate cap will be determined with no community input.

In Victoria, each year the Essential Services Commission provides advice to the Minister for Local Government on what the average rate cap should be. Each year, the Minister has ignored this advice and set the rate cap lower than the recommendation, equal to CPI as per an election commitment.

2. Rate capping limits councils' ability to provide local services – putting discretionary services at risk

Rate-capping interstate has resulted in more red tape and bureaucracy and has increased administration costs for councils and state government, diverting funds away from core services.

The level of council services currently provided would be less likely to be offered if rate-capping was introduced.

Many of the services councils provide are discretionary. They are provided at the request of the community and require income, through rates, fees, charges and grants to deliver.

¹ This includes residential and business rates. The methodology is General Rates (Gross) plus Penalties for late payment minus Discretionary Rebates, Remissions and Write-Offs minus Mandatory Rebates as provided from Councils to the Commission. Note this data includes growth in rateable properties and excludes Other rates/service charges (ie NRM Levy, Waste Collection, Water Supply, CWMS, Separate & Special, Electricity Supply).

For example, there is no legal requirement for councils to have a library, provide recreation and sporting facilities, maintain the local jetty, parks, gardens, open spaces or public toilets. They don't have to plant or maintain street trees, or facilitate community events and festivals. These services delivery great benefits to the community, but would be at risk under rate capping if councils are unable to generate the revenue required to maintain them.

3. Rate capping leads to higher user pays fees, charges and fines

Rate-capping decreases rates revenue to councils, but serves to increase revenue from other sources, such as fees and charges. It is often the case that councils do not set the level of fees and charges on services (these are usually prescribed in State legislation and set below cost), there are examples of councils increasing fees and charges in user pays services such as parking and additional waste collections.

4. Rate capping creates infrastructure backlogs

Rate-capping shifts costs to future generations as many councils will not be able to raise the revenue required for the maintenance and renewal of assets forecast in long term management plans.

5. Rate-capping does not make councils more efficient or financially sustainable – in fact council debt increases as councils struggle to meet community expectations

Rate capping does nothing to address the shifting of costs and responsibilities between state and local government and the pressure this creates on local government rates.

Rate capping in Victoria

Council rates are capped according to the cap that is set each year by the Minister for Local Government. This cap limits the maximum amount that councils may increase rates in a year unless councils seek approval from the commission for a higher cap.

The Essential Services Commission undertakes a role to

- provide advice to the Minister for Local Government on what the average rate cap should be;
- consider, approve or reject applications from councils for exemptions to the rate cap; and
- monitor council compliance with the cap

Levels of rate cap in Victoria

2016/17

- ESC recommendation – 2.8%
- Ministerial cap applied – 2.5% at Consumer Price Index
- Exemptions – 9 applications, of which 6 approved. Note one council put the cost of preparing and submitting their application for a rate cap variation at \$250,000. Another spent over \$10,000 putting together an application, by contrast their population is only 6822.

2017-18

- ESC recommendation – 2.15%
- Ministerial cap applied – 2% at CPI
- Exemptions – 5 applications, of which 4 were approved

2018-19

- ESC recommendation – 2.35% (based on CPI and Wage Price Index forecasts)

- Ministerial cap applied – 2.25% at CPI
- Exemptions – 1 application, outcome yet to be determined by ESC

Cost to ESC to administer rate cap system

- 2014-15 = \$0.83 million
- 2015-16 = \$2.53 million
- 2016-17 = \$2.94 million

Impact of rate capping on Victorian councils

In 2017 many Victorian councils have begun cutting services to their communities, or putting off costs to future generations, in response to the new rate-capping regime in Victoria.

In the first year of rate-capping (2016/17), some councils have managed to make efficiencies and find savings, including by re-negotiating enterprise bargaining agreements, a hiring freeze, but not all have been able to do so. Those that have managed the impact in the first year may be unable to do the same, year after year.

The table in Appendix A outlines the examples of reduction in spending and future measures identified by councils in Victoria in 2017, as submitted to the Parliament of Victoria's Inquiry into the Rate Capping Policy.

Summary of issues considered in the fourth report from Parliament of Victoria's Inquiry into Rate Capping Policy²

Quote (from Chair's forward, page vii)

"The process remains cumbersome and costly for councils and the variation process is unwieldy....There are a number of emerging issues impacting on the sustainability of rural and regional councils that the Committee will follow in the next six months. These include waste levies and the impact of changes to valuation policy."

Note; the Committee will produce one final report by 30 September 2018.

Comment on setting of rate cap

The Minister set a rate cap for the 2017-18 financial year of 2 per cent. This cap is not in line with the advice provided by the Essential Services Commission (ESC) which recommended 2.15 per cent utilising both Consumer Price Index (CPI) and the Wage Price Index (WPI). The Minister set the rate at 2 per cent to fulfil an election commitment to keep rate rises in line with the forecast CPI.

Note that under the SA proposal ESCOSA would set the final cap, not the Minister

Evidence received to the Inquiry regarding impacts of first year (2016-17) of rate capping.

The Municipal Association of Victoria (MAV) consulted with councils to determine the impacts of the first year of rate capping. During this consultation it was indicated that "some councils were beginning to experience financial pressure as a result of rate capping and that some councils were considering a reduction in the services they provide" (page 15).

The Inquiry also heard that some small rural and regional councils and some growing interface councils were experiencing financial challenges that were heightened by the rate capping policy" (page 15).

As a result of rate capping, some councils in Victoria were beginning to consider service reduction in:

² <https://www.parliament.vic.gov.au/epc/article/2644>

- road maintenance and construction
- the school crossings program
- the State Emergency Service (SES)
- home and community care
- maternal and child health, and
- roadside weeds and pests.

Note that there are some differences in the services provided by councils in Victoria and South Australia.

MAV advised that already there are emerging risks to the financial sustainability of small rural and regional councils. The Auditor General has reiterated these concerns stating in the Local Government: 2015-16 Audit Snapshot report that:

Overall, small shire councils are facing additional pressures due to smaller year-on-year revenue increases, and steady increases in expenditure. This has a direct impact on the level of funds these councils have available for capital infrastructure that councils are able to offer to their communities.

The Auditor General specifically noted that some councils under financial pressure were postponing renewal and maintenance of existing infrastructure assets.

The ESC echoed these concerns and acknowledged the risks to financial sustainability faced by small rural and regional councils. They further acknowledged that metropolitan councils have a greater flexibility in finding alternative sources of revenue in comparison. Rural councils are also subject to huge infrastructure such as large road networks that need to be maintained. These issues are further exacerbated by the fact that these councils have “a rate base that is either small or shrinking” (page 17).

Inquiry comments regarding Road Maintenance

Councils in Victoria are responsible for approximately 85 per cent of Victoria's roads. The poor quality and shortfall in maintenance of state owned roads has resulted in higher traffic use of local roads which is resulting in their rapid deterioration. In the May state budget, \$75 million was announced for restoration and road surface replacement of VicRoads. It is hoped that “this will go some way to reducing the amount of traffic diverted to municipal roads” (page 20).

While the Committee notes recent increases in roads to recovery funding from the Commonwealth as well as re-indexation of Commonwealth financial assistance grants, they are aware that the long-term effect or rate-capping on Victoria's municipal roads is yet to be seen. The experience from New South Wales has “produced the unintended consequence of councils not having the ability to maintain the local government road network” (page 20).

Rate pegging (capping) in New South Wales

The Independent Pricing and Regulatory Tribunal (IPART) sets the maximum amount NSW councils can collect in general revenue through an annual 'rate peg' and considers council requests to set higher charges with special variations.

Rates are pegged giving consideration to a Local Government Cost Index (calculated annually), which measures price changes over the previous year for the goods and labour an average council will use. However, IPART also have regard for productivity changes.

2018-19

- Rate peg set at 2.3%
- IPART calculated the rate peg for 2018-19 by taking the increase in the LGCI for the year to September 2017 of 2.3%, and setting the productivity factor to 0.0%.
- Exemptions; 13 council applications considered for special variation and three minimum rate applications. To date 13 applications have been approved, with other determinations pending.

2017-18

- IPART pegged rates at 1.5% for 2017/18. This was calculated taking the increase in the LGCI for the year to September 2016 of 1.47% and deducting a productivity factor of 0.001%. This results in a figure of 1.47%, which was rounded to 1.5%.
- Exemptions; 8 council applications considered for special variations:
 - 4 – approved in full ranging between 5.39% and 7.5%
 - 2 – approved in part at 4.9% and 13.2%
 - 2 – not approved

Impact of Rate Capping on NSW councils

In September 2017, a *report from University of New England Professor Brian Dollery confirmed that almost four decades of rate capping has failed NSW councils and their communities.*

Overview

The ***“An Empirical Assessment of the Impact of Rate-Pegging on South Australian Local Government”*** report presented a comparative analysis between SA and NSW local government to determine whether almost four decades of municipal tax limits in NSW had produced any measurable differences in equity, sustainability or efficiency relative to SA.

Professor Dollery's study is a comparative analysis between NSW and South Australian councils looking at whether rate capping in NSW has produced measurable differences in equity, sustainability or efficiency relative to South Australia.

This research showed that there is no evidence in NSW of rate capping improving efficiency in local government. It shows that rate capping leads to a decline in the financial sustainability of councils, and particularly smaller councils.

NSW councils with capped rates have higher levels of debt and larger infrastructure backlogs than those in SA (without rate-capping) and also have higher fees and charges that they pass on to their communities.

Key findings of the report

1. It is difficult to determine an effective limit on rate rises

“since rate-pegging targets the ‘tax-price’ of a basket of local public services, many of which possess the properties of public goods or quasi-public goods, which are mostly unpriced, it is hard to determine the optimal rate increases limit in practice.” Page 4.

2. There are 4 broad areas of criticism of rate-pegging

According to the regulatory agency Independent Pricing and Regulation Tribunal (IPART)

“(a) Rate-capping has generated severe local infrastructure backlogs in NSW local government.

(b) Rate-pegging has induced local authorities levy ‘higher user pays charges’ to recover revenue foregone.

(c) Rate-capping has restricted councils’ ability to provide local services.

(d) Rate-pegging has contravened ‘local democracy’.” Page 5.

3. Councils do not seek special variation to rate-pegging due to political pressure of community expectations

“The NSW Local Government and Shires Association states, “Rate-capping has shaped ‘public expectations about maximum rate increases, placing political pressure on councils to stay within the limit and not seek special variations’.” Page 5.

Evidence comparing NSW (with rate-pegging) to Victorian councils (prior to rate capping) has found that:

4. Rate-capping decreases rates revenue to councils, but serves to increase revenue from other sources, such as fees and charges.

“Limitations on property taxes can cause councils to increase income from revenue sources other than rates.” Page 8

5. Rate-capping impacts more on smaller councils

“the effects of rate-pegging depend on the characteristics of local councils. For example,

Brown (2000) established that in the Colorado local government system the impact of these limitations were contingent on council size and were more marked in small councils.” Page 8

6. Councils with capped rates have higher levels of debt and larger infrastructure backlogs than those without rate-capping

“NSW had much higher levels of council debt per household. They also examined the average infrastructure renewal ratio in NSW and Victoria as a measure of the infrastructure backlog and established that NSW had by far a much larger backlog.” Page 9

7. Rate revenue represents large revenue for councils, but a small proportion of local resident income.

“For the typical council rate revenue often exceeds 50% of total revenue, and can be as high as 96% of total revenue, yet for a typical resident rate revenue effort represents only between 3% and 8% of income.” Page 12

8. Revenue from rates is just as important to SA councils as NSW councils

“It is evident that revenue effort and relative importance of rates are fairly similar in the NSW and SA local government systems.” Page 12

9. Despite rate-pegging in NSW, councils in NSW have significantly more debt than SA councils

10. Rate-capping is an ineffective tool to reduce council debt and may lead to increased debt

“At the least, this result suggests that rate-capping is ineffective as a means of reducing municipal debt and it may possibly be a contributing factor to the relatively higher debt held by NSW councils.” Page 14

11. Rate-capping does not make councils become more efficient.

“In each of the four years under analysis the efficiency of NSW councils was well below that of their SA counterparts. While the expenditure per capita of NSW councils fell between 2013 and 2016 - indicating an increase in efficiency for these municipalities on average - this trend was also evident in SA local government. Moreover, average expenditure per household was appreciably higher in NSW. It follows that rate-capping has not been successful in creating superior performance in terms of the efficiency of NSW councils as measured by average expenditure per household.” Page 15

Conclusions of NSW experience relevant to rate capping in South Australia

1. There is no evidence to suggest that rate-capping will increase efficiency at councils
2. Rate-capping leads to a decline in financial sustainability of councils
3. SA councils perform better than NSW local government, notwithstanding rate-pegging in NSW on three key issues:
 - Reliance on rate revenue as income
 - Financial sustainability
 - Efficiency

Appendix A

Impact of rate capping in Victoria in 2017 – overview³

Among the serious consequences experienced in the first year of rate capping, is a reported deterioration in optimal infrastructure maintenance (and hence reduced service levels) at:

- Baw Baw
- Buloke
- Golden Plains
- Kingston
- Towong
- West Wimmera

A host of other Councils have deferred or cancelled new capital works or previously-planned infrastructure improvements. These councils include:

- Frankston,
- Gannawarra,
- Hobson's Bay
- Manningham
- Maroondah
- Mildura
- Moira
- Nillumbik
- South Gippsland
- West Wimmera
- Whittlesea
- Wodonga
- Yarra

Cuts to services include:

- Bass: Visitor information
- Brimbank: Community events and tree planting
- Central Goldfields: Reduced expenditure in areas of assistance to community organisations, events and activities
- Corangamite: Reduced contribution to the local SES
- Manningham: aged care services
- Mitchell: reduced operating hours for customer service/library and pool facilities, removal of community, tourism and environmental grants program
- Monash: community grants frozen
- Moyne: reduction in maternal & child health hours; closure or decrease in operating hours of waste transfer stations
- Northern Grampians: No longer subsidising children's crossings, no direct provision of visitor information in Halls Gap, Stawell and St Arnaud
- Swan Hill: Phased reduction in council funded Home care for the aged
- Towong: End of mobile library, council kindergartens, cuts to hours of maternal and child health, swimming pool hours, toilet cleaning, end to SES contributions, school crossing supervisors
- West Wimmera: closed a public hall and likely to divest more
- Yarriambiack: closure of a council office

Some Councils have increased (or intend to increase) fees and charges to make up for a shortfall in revenue. These Councils include:

- Central Goldfields
- Moreland
- Port Phillip
- Queenscliff (waste services now a separate charge)

³ <https://www.parliament.vic.gov.au/epc/article/3186>

Council	Reduction in spending examples	Future measures to reduce spending
Alpine	<ul style="list-style-type: none"> Organisational restructure and simplifications of processes Relinquish HACCC to state government Demand reduction (utilities and materials) Review of memberships and subscriptions 	<ul style="list-style-type: none"> Council directed the CEO to save \$600,000 in employee costs by negotiating a three year wage freeze for staff to demonstrate restraint. Market test a savings of \$2,000,000 by outsourcing or restricting major parts of the organisation. Dissolved the High Country Library Corporation and brought it in house Demand reduction
Ararat	<ul style="list-style-type: none"> No conscious decisions have been made to reduce services that will directly affect service delivery to the public. 	<ul style="list-style-type: none"> Service reviews to be undertaken but no decisions have been made as the council elections were in October 2016. However, by 2019/20 there will be a \$6.828 million deficit from, what is currently, a balanced budget.
Ballarat	<ul style="list-style-type: none"> No answer 	<ul style="list-style-type: none"> No answer
Banyule	<ul style="list-style-type: none"> Minimal opportunity to reduce staff Strategic property sales Efficiencies through lighting, water and solar installations Renegotiation of tenders for water, property insurance and library contributions Increase building permit fee income 	<ul style="list-style-type: none"> Consolidating staff into one headquarter which will improve efficiencies.
Bass	<ul style="list-style-type: none"> Reduced staff and outsourcing municipal valuations. Restructure local laws and emergency management 	<ul style="list-style-type: none"> Undertake service review Reduce the visitor information services Reduce fleet vehicles Reduce staff and senior management Delay major projects including shared pathways
Baw Baw	<ul style="list-style-type: none"> Organisational restructure and reduction of 18.8 FTEs 	<ul style="list-style-type: none"> The rate cap will place restrictions on future capital works programs including reducing the current infrastructure backlog.
Bayside	<ul style="list-style-type: none"> Service reviews but there is no deferral or cancelation of infrastructure 	<ul style="list-style-type: none"> They will need to find \$2 million in recurrent savings to ensure ongoing financial sustainability. Councils' capacity to identify these savings without impacting

		service delivery is diminishing.
Benalla	<ul style="list-style-type: none"> Nine positions made redundant and new EBA reduced from 3.8 to 2% increase 	<ul style="list-style-type: none"> Organisational review
Boroondara	<ul style="list-style-type: none"> Created one EBA Paid off debt quicker to reduce interest costs Budget review to remove discretionary funds not directly aligned to a specific service provision 	<ul style="list-style-type: none"> Moving to a digital environment to streamline customer experience, ensure increased accessibility and minimise red tape in the provision of council services.
Brimbank	<ul style="list-style-type: none"> \$24 million will need to be saved from the budget over the next four years. Will make material and environmental efficiencies Will maintain current levels of service but reduce operational costs and reviewing the way events are provided. Extra plants and mulch for some main road tree planting have been scrapped. Some community events and programs were scaled back 	<ul style="list-style-type: none"> Looking at shared services models
Buloke	<ul style="list-style-type: none"> Reduce operating expenditure by \$4 million per year but needed to still raise rates by 6% to get to a financially sustainable position. Have reduced services to the community and a widening of the renewal gap 	<ul style="list-style-type: none"> Reviewing all services over three years. Will maintain and renew assets rather than creating new ones.
Campaspe	<ul style="list-style-type: none"> Productivity and efficiency gains through implementation of modern ICT system and improved processes. 	<ul style="list-style-type: none"> Continue to improve productivity and efficiency. Review of halls and other infrastructure including aquatic centre. Looking at energy efficiencies, consolidation of the office accommodation and continuing sale of identified land assets that are surplus to requirements.
Cardinia	<ul style="list-style-type: none"> Reviewed the 12,000 lines of expenditure. Non-essential services were not given CPI increases. Supplier contracts were renegotiated. Staffing freeze was put in place and senior management roles were reduced. 	<ul style="list-style-type: none"> Unknown. A lot will depend on the introduction of the Growth area's interface fund as to what cuts will be required.
Casey	<ul style="list-style-type: none"> Review grass cutting contracts and service levels. Review of vehicle/plant trade-in periods and investment in energy efficient lamp conversion. 	<ul style="list-style-type: none"> Achieved efficiency

Central Goldfields	<ul style="list-style-type: none"> Council adopted a larger rate increase the year prior to rate capping. Made adjustments to loan repayments which in effect reduces council's capacity to borrow and therefore reduces infrastructure works 	<ul style="list-style-type: none"> Council increased significantly a range of fees and charges although in all cases the new figures were within industry standards and comparable with other municipalities Reduced expenditure in areas of assistance to community organisations, events and activities Undertook some staff restructuring which will result in service cuts
Colac	<ul style="list-style-type: none"> Business improvement initiatives such as reducing fuel consumption, savings in utility costs, streamlining postal services 	<ul style="list-style-type: none"> Hired a business improvement coordinator to find ways to reduce costs
Corangamite	<ul style="list-style-type: none"> No prep undertaken 	<ul style="list-style-type: none"> Must find a recurrent \$500,000 to fund gap. SES contributions will reduce. Increase fees and charges
Darebin	<ul style="list-style-type: none"> Council will draw down on cash reserves 	<ul style="list-style-type: none"> Council will draw down on cash reserves
East Gippsland	<ul style="list-style-type: none"> Shared services agreement with neighbouring councils Installation of solar systems and changes of street lighting 	<ul style="list-style-type: none"> Looking at further shared services opportunities.
Frankston	<ul style="list-style-type: none"> Had to cut \$2.6m 	<ul style="list-style-type: none"> Savings made through cutting employee costs by negotiating a new EB with lower increases in raises Reduce capital expenditure
Gannawarra	<ul style="list-style-type: none"> Restructure 	<ul style="list-style-type: none"> Service review to identify efficiencies Greater reliance on grant funding for capital works Some deferral of capital projects Staffing hire freeze Reduce staff wage increase (will be 1/3 of current increase)
Glen Eira	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Business efficiencies review
Glenelg	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None
Golden Plains	<ul style="list-style-type: none"> Held maintenance expenditure at 2013/14 levels No increase in staff Reduced capital expenditure 	<ul style="list-style-type: none"> One year freeze on staff numbers, IT equipment replacement, fleet vehicle replacement. Held maintenance at 2013/14 levels in dollar terms
Greater Bendigo	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None
Greater	<ul style="list-style-type: none"> Reduction in EBA awarded wage increases 	<ul style="list-style-type: none"> None

Dandenong	<ul style="list-style-type: none"> Had received higher level forecast rates in previous years 	
Greater Geelong	<ul style="list-style-type: none"> \$0.9m in operational efficiencies were identified 	<ul style="list-style-type: none"> Operational improvements in road maintenance. Review of filling positions
Greater Shepparton	<ul style="list-style-type: none"> No changes as a result of rate capping as work was already being done. Procurement reviews – contracts for cleaning buildings Internal cost reviews such as electronic agendas 	<ul style="list-style-type: none"> Increased user fees Increased contributions from project stakeholders Reduction in consultants Lower EBA Utilisation of borrowings for capital projects
Hepburn	<ul style="list-style-type: none"> Made efficiency savings through contracts, reduction in interest/legal fees etc Service reviews 	<ul style="list-style-type: none"> Procurement and service reviews
Hindmarsh	<ul style="list-style-type: none"> Budget was insulated from the impact of rate capping and the reduction in the Local Roads and Bridges funding removal due to an increase in roads funding through the Roads to Recovery 	<ul style="list-style-type: none"> Unknown but will be undertaking review
Hobsons Bay	<ul style="list-style-type: none"> Efficiencies and cost saving program in 2014-15 resulted in \$3 million in underspend Savings identified both of an operational and capital nature, are being quarantined in an infrastructure reserve to fund future capital works and reduce any funding shortfalls identified in council's long term financial plan 	<ul style="list-style-type: none"> \$13.8 million capital works will need to be deferred between 2019-2020 and 2025-26. There is significant increase in unfunded capital works in the last three years of their LTFP
Horsham	<ul style="list-style-type: none"> Hire freeze, have delayed appointments for replacement staff and tried to reduce staff numbers through natural attrition if possible. Have discontinued software contracts and some sub-contractor payments. 	<ul style="list-style-type: none"> Hiring freeze. Have set maximum increase of 2% increase on all non-salary operational costs but have managed to save around 1%. Will review all fee for service charges. Seeking more sources for grant income.
Hume	<ul style="list-style-type: none"> They have contained the level of staff growth 	<ul style="list-style-type: none"> Pay-out interest bearing debt Review of organisational memberships
Indigo	<ul style="list-style-type: none"> Council consistently ensures costs only increase no greater than 2% year on year 	<ul style="list-style-type: none"> Looking to either remove or reduce costs related to services affected by cost shifting
Kingston	<ul style="list-style-type: none"> Employee cost reductions No CPI increases in any goods and services except for 	<ul style="list-style-type: none"> No "CPI" increases in any Goods and Services except for contractual obligations. \$1.2M saving against

	<ul style="list-style-type: none"> contractual obligations Reduce workcover premium 	<p>2015/16 LTFS</p> <ul style="list-style-type: none"> Labour productivity 2% equates to \$1M saving Workcover Premium – no change from prior year at \$950K Saved \$200K by centralising overall printing, design, advertising costs within Communications 2.85 EFT reductions in Infrastructure, Family Youth and Children saving \$210K Civil Maintenance spend ↓ \$200K Ongoing productivity improvement focus
Knox	<ul style="list-style-type: none"> Undertaking service delivery review 	<ul style="list-style-type: none"> Undertaking service delivery review
Latrobe	<ul style="list-style-type: none"> Completed a restructure in the lead up to the rate capping being introduced 	<ul style="list-style-type: none"> Ability to undertake major infrastructure projects in the future will be significantly curtailed
Loddon	<ul style="list-style-type: none"> Organisation restructure Lean Thinking 	<ul style="list-style-type: none"> Service delivery review No borrowings Reduce salary and wage increases
Macedon	<ul style="list-style-type: none"> Council has restricted its growth in operational expenses to about 1% per annum and reduced its expenditure to new initiatives by about 50% over the last three years. This has enabled council to increase its contributions to infrastructure spending by 14% 	<ul style="list-style-type: none"> Will look at other revenue sources other than rates to maximise total available revenue opportunities
Manningham	<ul style="list-style-type: none"> Council has had an ongoing focus on restricting the level of growth in operating costs each year. This has been achieved through setting strong budget targets at the start of the year, collaborative tendering with adjoining councils, delayed recruitment of vacancies and reviewing (and where possible reducing) the banding level of advertised positions. 	<ul style="list-style-type: none"> Capital funding reduced by \$202,000 resulting in parts of the capital program being deferred to future periods. Operational funding reduced by \$404,000 in 2016/17. The primary operational measure was to reduce rate funding to Aged Care Services (HACC) funding. This was completed through service redesign, improved efficiencies and council reducing service hours in a process of working towards achieving funded service target hours only (Council is providing more hours than it is funded for).
Mansfield	<ul style="list-style-type: none"> Reduced wage increases Only solution into the future is service reductions and staff layoffs. Both actions will impact significantly in Mansfield and other rural communities 	<ul style="list-style-type: none"> Capping wage growth through the EBA

Maribyrnong	<ul style="list-style-type: none"> Service level reviews 	<ul style="list-style-type: none"> Hiring freeze Infrastructure renewal levy of 2% of rates was removed
Maroondah	<ul style="list-style-type: none"> Undertook a review 	<ul style="list-style-type: none"> Reducing drainage infrastructure planned for future years
Melbourne	<ul style="list-style-type: none"> Long term financial planning and reviews process 	<ul style="list-style-type: none"> Council sets an efficiency target of approximately 1% of operating costs annually compounding
Melton	<ul style="list-style-type: none"> Exited Disability Respite Service and Early Intervention Program 	<ul style="list-style-type: none"> Council has focussed on non-rate income generation
Mildura	<ul style="list-style-type: none"> Have been undertaking a sustainability review since 2012 and have systematically reviewed council services 	<ul style="list-style-type: none"> Not refilling jobs when people leave. Procurement contracts have been renegotiated. Plant and fleet items have had their replacement life extended if suitable. Changes to project management to better incorporate whole of life costs. A number of projects proposed for 2016/17 including drainage spur line expansion, sporting ground lighting upgrades and reserve car park renewals were not approved.
Mitchell	<ul style="list-style-type: none"> Was already in a process of identifying savings. Service reviews with potential for fee increases. Vacancies were left unfilled to undertake staff restructure. 	<ul style="list-style-type: none"> To be achieved by way of reduced operating hours for customer service/library and pool facilities, removal of community, tourism and environmental grants program for 2016/17, a reduction in strategic planning, external condition audits, and other minor reductions.
Moira	<ul style="list-style-type: none"> Some road projects deferred 	<ul style="list-style-type: none"> Contain wage growth through new EBA, defer road projects, no increase in any budget items.
Monash	<ul style="list-style-type: none"> Service and efficiency reviews for three years. They withdrew from Aged Residential Care (not rate cap related). Community grants frozen. Review of contracts. Catering budgets reduced. Freeze on staffing levels. 	<ul style="list-style-type: none"> Reviewing legal services; streamlining payroll systems; audit of mobile phone usage; community grants frozen; review consultancy use.
Moonee	<ul style="list-style-type: none"> No reductions used 	<ul style="list-style-type: none"> No new initiatives.
Moorabool	<ul style="list-style-type: none"> Service reviews, service planning, business excellence program, implementing stringent budget controls. 	<ul style="list-style-type: none"> Service reviews, service planning, business excellence program, implementing stringent budget controls.
Moreland	<ul style="list-style-type: none"> Focusing on cost reduction and increasing revenue in the short-medium term. 	<ul style="list-style-type: none"> Service and efficiency review Continued review of all fees and charges with view to

	<ul style="list-style-type: none"> Reduced wage increases in EBA. All fees and charges have been reviewed with the aim to reach cost recovery 	<ul style="list-style-type: none"> reach cost recovery Intent is not to defer any works.
Mornington Peninsula	<ul style="list-style-type: none"> Council restructure in the lead up to this year. Now developing a long term financial plan to analyse the impact of rate capping on services and develop a strategy to minimise its impact 	<ul style="list-style-type: none"> Centralisation of procurement
Mount Alexander	<ul style="list-style-type: none"> Reduction in insurance premiums, number of photocopiers, electricity savings and full review of the Aged and Disability Services. No CPI increases for projects. Any increases must be found in operational budgets. 	<ul style="list-style-type: none"> Service review
Moyne	<ul style="list-style-type: none"> Service review 	<ul style="list-style-type: none"> Decrease in gravel road sheeting by \$80,000 per annum; Closure of Waste Transfer stations and decrease in operating hours of Waste Transfer Stations; Increase in HACC full cost recovery charge; Decrease in sponsorship budget \$20,000; Reduction in Maternal & Child Health hours.
Murrindindi	<ul style="list-style-type: none"> Service review continuation which has been occurring for four years. 	<ul style="list-style-type: none"> No new initiatives for the community and 84% of all capital expenditure is to be allocated to renewal of existing infrastructure. Applied for and received a special rates variation. Reduced allocation to seed funding for new business development initiatives within the council but \$20,000.
Nillumbik	<ul style="list-style-type: none"> Council has made significant changes to prioritising of projects which has resulted in delaying works to future financial years. Delayed replacement of staff vacancies. 	<ul style="list-style-type: none"> Operational savings across the organisation including IT costs, publications, reductions in materials. Savings from collaborative procurement and tender processes. Projects previously planned for 2015-16 and 2016-17 were re-scheduled to future financial years. Council borrowings for capital projects have been reduced to zero for future years in the long term financial plan.
Northern Grampians	<ul style="list-style-type: none"> Cessation of the provision of children's services in Stawell. Withdrawing from subsidising children's crossings in the Shire. 	<ul style="list-style-type: none"> Reduced operating hours St Arnaud Customer Service Centre. Realisation of savings from solar panel installation on many Council buildings.

	<ul style="list-style-type: none"> • Cessation of the direct provision of visitor information services in Halls Gap, Stawell and St Arnaud. • Shared Services for GIS, EHO, Engineering. • Moved to Activity Based Working, reducing office space and rental costs. • Reformed rostering to reduce wage costs in Leisure Services. • Renegotiate and rationalise photocopiers to save significant cost. • Moved to reduce paper based offices through the use of electronic document processes and software. • Mercury Vapour streets lights changed to LED. • Hand the responsibility for Standpipes in St Arnaud back to GWM Water. • 11. Ongoing building rationalisation, dispersal or demolition. 	<ul style="list-style-type: none"> • Further shared services planned, ie further health, planning and building. • Continued building rationalisation, dispersal or demolition.
Port Phillip	<ul style="list-style-type: none"> • Operating efficiencies of \$1.35m through competitive tendering, decommissioning unused or superseded technology, reviewing costs, minor reorganisation of staff and efficiencies review. 	<ul style="list-style-type: none"> • Competitive tendering, reduction in IT contracts, removal of management positions. • Should rates capping continue the cumulative rates cap challenge over the period of 2016/17 to 2019/20 at \$6.8 million. To meet and close the rates gap over the remaining years of the Strategic Resource Plan, savings will be achieved by identifying: <ul style="list-style-type: none"> • efficiencies identified through improvements in processes, procurement and project planning and delivery user fees and charges that reflect the benefit that individual community members receive • service delivery review
Pyrenees	<ul style="list-style-type: none"> • Savings have been found through service review efficiencies, improved procurement practices, shared services and a continuous improvement program. 	<ul style="list-style-type: none"> • Rate cap and freezing of FAGS has been absorbed by council through operation savings and capital reprioritising. • Savings have been achieved in management of council fleet, reduction in staff and consultant costs, utilisation and efficiency of plant, shared services, improved procurement processes.

		<ul style="list-style-type: none"> No more opportunities in the operational budget to trade off the rate cap variance without negatively impacting on the level of services provided to the community such as reducing capital spending or reducing service provision.
Queenscliff	<ul style="list-style-type: none"> Reprioritise operational project initiatives and identified other operation efficiencies 	<ul style="list-style-type: none"> Full cost recovery on waste management through separating the waste management charges from general rates Renegotiate the EBA under rate capping regime
South Gippsland	<ul style="list-style-type: none"> Council's Safer intersections program has been deferred indefinitely. Bridge replacement has been deferred in favour of undertaking major maintenance to extend bridge lives. The paths and trails program has also been deferred indefinitely. 	<ul style="list-style-type: none"> Due to increase in Roads to Recovery grant funding no additional work has been deferred. However, assuming that funding is reduced there will be impacts on work due to rate capping.
Southern Grampians	<ul style="list-style-type: none"> Service review. 	<ul style="list-style-type: none"> New revenue sources to be identified where possible. Salaries and wages to be maintained in line with average weekly earnings. Contractors limited Service review
Stonnington	<ul style="list-style-type: none"> Reduce one general manager position 	<ul style="list-style-type: none"> Borrowings will increase to part-finance the capital works program, thereby increasing debt for future ratepayers.
Strathbogie	<ul style="list-style-type: none"> Resources of depots to save operating and wage costs 	<ul style="list-style-type: none"> Resources of corporate services to save wage costs
Surf Coast	<ul style="list-style-type: none"> Business improvement program including service reviews, investigating opportunities for business efficiency. 	<ul style="list-style-type: none"> Continue the business improvement program. Focus on longer term financial planning to better understand future challenges.
Swan Hill	<ul style="list-style-type: none"> Phased reduction in council funded Home care, energy efficiency measures, non-replacement of some staff positions. Utilise MAV Local Government Funding Vehicle to obtain lower interest rates 	<ul style="list-style-type: none"> Phased reduction in council funded Home care, energy efficiency measures, non-replacement of some staff positions. Utilise MAV Local Government Funding Vehicle to obtain lower interest rates Staged redevelopment of Pioneer Settlement to increase revenue from tourist facility
Towong	<ul style="list-style-type: none"> Swimming pool season reduced by one week 	<ul style="list-style-type: none"> SES contribution ceased

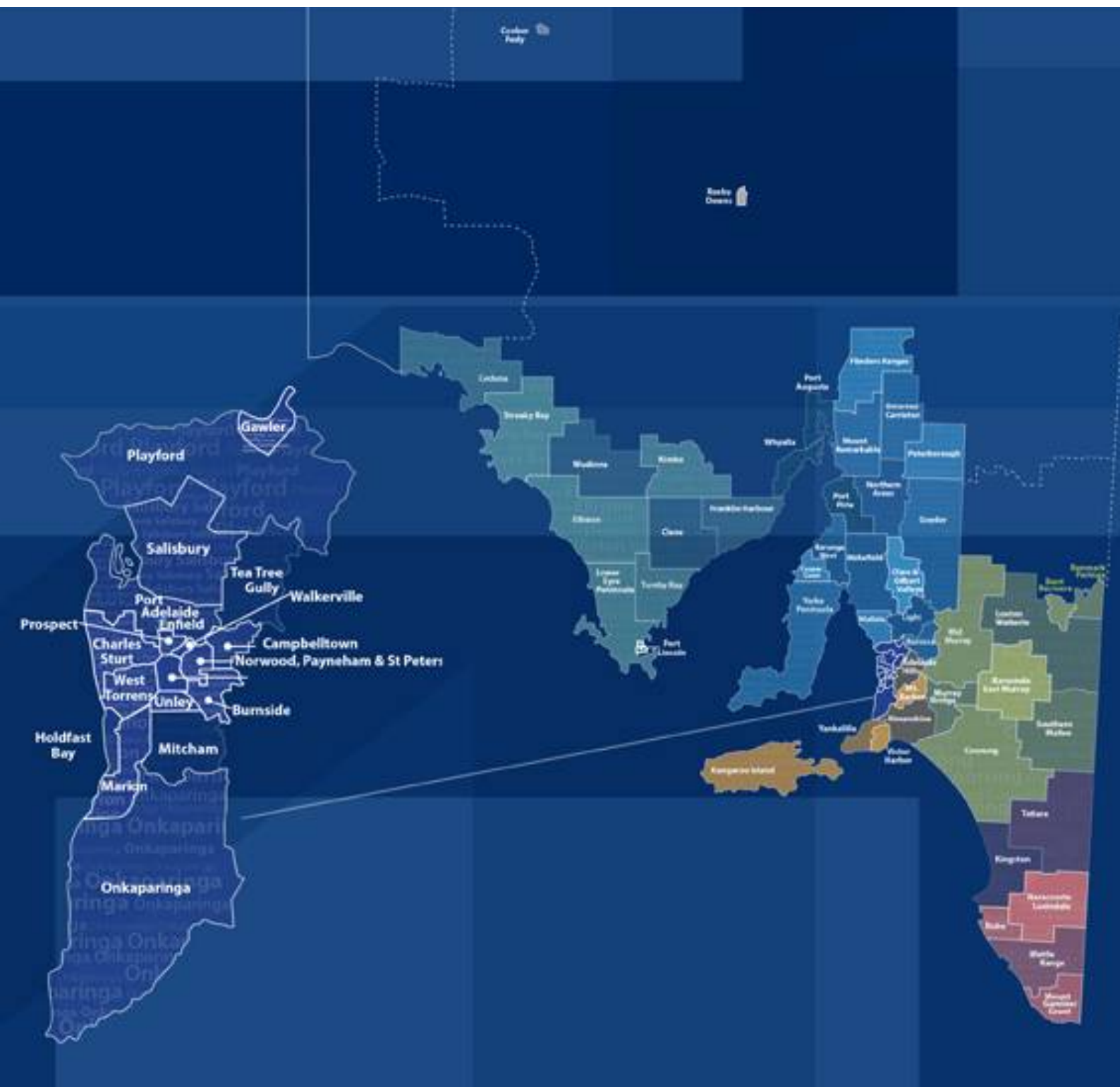
	<ul style="list-style-type: none"> Roads maintenance workforce reduced Mobile library services discontinued Health Alliance partnership position terminated Library and council office hours reduced Public toilet cleaning suspended on weekends Change telecommunications provider Reduction in fleet Street lights changed to LED 	<ul style="list-style-type: none"> Maternal and Child Health ceased contribution reducing hours from 3280 to 2193 per year School Crossing supervisors contribution ceased Ceased Kindergartens Swimming pools reduced hours Eskdale community pool contributions ceased which means it will likely close State-wide community satisfaction survey participation ceased School leaver scholar ship ceased Reduced youth workshops Ceased Seniors events Ceased memberships with Timber Towns and Murray Darling Association Reduction in staff training
Wangaratta	<ul style="list-style-type: none"> Procurement strategies and improved technologies 	<ul style="list-style-type: none"> Voluntary redundancy and restructure to reduce FTE and labour costs across council
Warrnambool	<ul style="list-style-type: none"> Not answered 	<ul style="list-style-type: none"> Not answered
Wellington	<ul style="list-style-type: none"> Implemented improvements in ICT, business systems software and processes 	<ul style="list-style-type: none"> Continue to review ICT Shared ICT services with other councils Negotiate EBA to reduce annual wage increases
West Wimmera	<ul style="list-style-type: none"> Reduced EBA from 4.5% to 2.7%. Deferral of non-essential capital works while long term capital plans are developed. Council has closed one public hall and is likely to divest more where the service can be provided by another facility within 50km 	<ul style="list-style-type: none"> Has budgeted to reduce expenditure on roads by \$0.65m and bridges by \$0.4m in 2016/17. Reviewing service levels Reviewed administrative costs and reduced stationary and printing costs Council is reluctant to undertake borrowings as it is already in an operating deficit position and not in a growth area. This would mean that borrowings would exacerbate council's operating deficit and place pressure on council cash reserves.
Whitehorse	<ul style="list-style-type: none"> Nothing 	<ul style="list-style-type: none"> Has priorities infrastructure renewal and maintenance expenditure
Whittlesea	<ul style="list-style-type: none"> Removed \$1m from budget (no information is provided) 	<ul style="list-style-type: none"> Reduced budget allocation for new initiatives/projects

	about how though)	from \$3m to \$500,000
		<ul style="list-style-type: none"> • Service review
Wodonga	<ul style="list-style-type: none"> • Internal restructure • Service reviews • Reduced contractor costs through negotiation and efficiencies 	<ul style="list-style-type: none"> • Service reviews • Put in application for rate variation but if unsuccessful they will defer capital works projects
Wyndham	<ul style="list-style-type: none"> • Continuous improvement through process reviews and improving operations • Implementation of e-services and apps to improve customer experience, access to information 	<ul style="list-style-type: none"> • Productivity and efficiency gains of around \$1.4m. Reduction in new staff and a reduction in insurance premiums • Restructure
Yarra	<ul style="list-style-type: none"> • Deferred infrastructure • Brunswick street bike path • Brunswick street drainage project • Cecil street drainage project 	<ul style="list-style-type: none"> • Saved employee expenses (doesn't say how) • Materials and services (doesn't say how)
Yarra Ranges	<ul style="list-style-type: none"> • Efficiency reviews • FTE savings, restructures and EBA negotiation savings • Regional collaboration • Surplus asset disposal 	<ul style="list-style-type: none"> • Initiatives continued
Yarriambiack	<ul style="list-style-type: none"> • Reduction in duplication 	<ul style="list-style-type: none"> • Council closed a council office and leased the premises to the community for \$1 per annum.



Delivering the LGA 2018 State Election Agenda: Local Government Reform

February 2018



Delivering the LGA 2018 State Election Agenda: Local Government Reform

Introduction

The Local Government Association's 2018 State Election agenda- *South Australia. Uncapped Potential*- identifies local government reform as a priority for the next state government. This document outlines a plan for sensible change that state and local government can work together to start delivering in the **first 100 days of government** and beyond.

The local government sector is ready for change and is preparing to build on our history of driving our own reform agenda.

The comprehensive *Local Government Financial Sustainability Program*, which commenced in 2005, encompassed legislative and practice reform that has resulted in over a decade of sustained improvement in local government finances and asset management.

The '*Council of the Future*' report released by the Local Excellence Expert Panel in December 2013 has provided a further road map for structural and practice reform in local government to address the challenges facing South Australia over coming decades, including further globalisation, population trends, emerging technologies, climate change, and communities expecting to be more effectively engaged in decision making.

Since the report's release, the LGA has consulted extensively with member councils and has pursued, supported and achieved initiatives such as a State/Local Government Infrastructure Partnership to bring forward investment in public assets, streamlining of local boundary reform processes to improve the independence and transparency of decision making, regionalisation and shared services projects to integrate planning across councils and drive efficiencies, new planning and development legislation to include the option of regionalised planning functions, considered the role of the Auditor General in auditing councils, commenced a council benchmarking program, provided resources to encourage deliberative engagement methods, produced a public lighting business case to reduce costs to councils, developed a new Code of Conduct proposal and carried out an LGA governance review and a review of the LGA Schemes.

The next chapter of local government reform will concentrate on the many things the sector can achieve through continuous improvement programs that strive to meet an always evolving community standards and understanding of best practice.

There are a number of areas of local government operations that can be strengthened without the need for legislative intervention. A prescriptive, legislated approach to reform can often tie the sector to a 'one size fits all' outcome that doesn't suit the circumstances of every council and community, creates additional red tape, quickly becomes outdated and doesn't deliver value for money.

There is however a critical role for the state parliament to ensure that the legal framework within which local government operates remains contemporary and empowers councils with the regulatory tools and resources needed to successfully serve communities.

The Local Government Association and member councils look forward to working with all members of the next state parliament to deliver sensible local government reforms that will benefit South Australian communities.

Local Government Today

Any sensible discussion about local government reform must begin with a thorough understanding of the current framework within which councils operate. Almost all aspects of local government are regulated by the *Local Government Act 1999* or the numerous other State Acts that reference councils.

A high degree of oversight, transparency and accountability is to be expected as councils are responsible for \$22 billion worth of public assets and infrastructure and have a combined annual budget of \$2 billion to provide local services and facilities that are part of everyday life. This is an enormous responsibility- and not one that can be taken lightly.

The current local government framework requires each council to have an audit committee, appoint an external auditor and adopt procedures for decisions to be reviewed. It also allows for investigations by the State Ombudsman, Independent Commissioner against Corruption (ICAC) and the Auditor General. In extreme cases the Minister can exercise powers to dismiss a council and appoint an administrator.

Recommendations from the State Ombudsman, ICAC or the Auditor General are often the catalyst for legislative change. Parliamentary Committees can also undertake inquiries into local government matters and make recommendations for legislative and operational reform.

Ultimately, councils are accountable to the communities they serve. Council elections are held once every four years and approximately 30% of eligible voters participate in the postal voting process, which is consistent with voter turnout for voluntary elections in other states. Once elected, council members must undertake mandatory training and uphold standards of behaviour that are outlined in a Code of Conduct. A Register of Interests, a Gifts Register and an Allowances and Benefits Register must be maintained by each council.

As the sphere of government that is closest to communities, there is a high degree of public interest in local government. Communities are seeking more information about how their council is operating and how their rates dollars are being spent.

The *Local Government Act 1999* provides a detailed list of the documents that must be made publicly available by councils. This includes registers and returns, codes, meeting papers and numerous policy and administrative documents.

Every council is required to adopt Strategic Management Plans (SMPs) to outline the council's objectives for a period of at least four years. SMPs must include a Long Term Financial Plan and Infrastructure and Asset Management Plan, each covering a period of at least 10 years.

The council's long term objectives are required to be summarised each year in an Annual Business Plan, which must outline the measures that will be used to assess performance against those objectives throughout the financial year. There are a number of factors that must be considered by a council in setting an annual plan, budget and rates structure, including the impact on the community.

Performance against the measures outlined in these plans are publicly reported each year through each council's Annual Report. The material that must be included and the numerous matters that must be reported on in the Annual Report are prescribed in Schedule 4 of the Local Government Act, and in other Acts under which councils operate.

The community is invited to participate in all annual and long term planning and budgeting processes. Councils are required to adopt a policy that outlines how the community will be consulted. Representation reviews are required to be carried out at regularly (usually about every 8 years) to

determine if the community would benefit from an alteration to the council's composition or ward structure.

Local Government Tomorrow

The *Local Government Act 1999* currently sets out sound structures in relation to accountability, transparency and engagement, and provides for independent oversight to ensure that councils are meeting their compliance obligations.

However, that does not mean that things can't be improved.

After consulting with member councils, the LGA has developed a sector-driven local government reform agenda that is focussed on these principles:

- Sustainability
- Efficiency
- Local decision making
- Sector consistency
- Simpler regulation

Ultimately change within local government needs to benefit communities and create public value for South Australia. Quick fixes and populist 'solutions' need to be avoided as they will end up costing communities more in the long run. That's why rate capping and forced amalgamations will not be supported by local government.

However, we welcome the opportunity to work with all parties that want to be a part of a sensible continuous improvement program that will deliver long term benefits to communities.

We are pleased to outline our plan for sensible change.

Our Plan for Sensible Change

Sector wide benchmarking program

While there is a considerable amount of information already available to communities about what their council is doing; this information is often spread across multiple documents and platforms, can be difficult to find and is not easy to compare with other councils.

The LGA is working towards developing a more sophisticated performance measurement and reporting framework as a consistent way to promote transparency and accountability. Gathering information about councils and how they are operating is beneficial for a number of reasons, including:

- determining if councils are performing well, being fiscally responsible and are financially sustainable;
- assessing the relative efficiency of the sector and the value for money being delivered to communities;
- measuring and evaluating the outcomes that are being achieved and whether the community is satisfied with what councils are delivering; and
- identifying opportunities for continuous improvement and reform programs to strengthen the sector.

In developing a benchmarking framework, care needs to be taken to reflect that councils are as diverse as the communities they serve. Not all measures will be comparable across all councils and financial information will tell only one side of the story. It is important that this work focusses on a contained suite of meaningful performance measures that build a more complete picture of the financial and governance health of the sector and the public value of the services and programs delivered by councils.

The LGA's State Election Agenda- *South Australia. Uncapped Potential*- calls for the state government to provide \$3 million in 2018/19, and \$1 million a year for the following 3 years, towards the establishment of a sophisticated database of performance measures to support council planning and community consultation to enable local government to continually improve. Early commitment to this funding support would allow this work to be expedited.

Strengthening the Council Members Code of Conduct

Communities have the right to expect high standards of behaviour from the people they elect to represent them- at all levels of government.

The local government sector has acknowledged that the current Code of Conduct system for council members is not working as it should. Local government is keen to see comprehensive reforms introduced for the Code and the LGA has worked with councils to develop a framework of new ideas to achieve meaningful change.

Local government, like all sectors, should be free of bullying and harassment, and further work needs to be done to ensure there are appropriate measures to deal with any isolated examples of serious behavioural issues.

To strengthen the Code and give communities confidence that complaints will be dealt with effectively, the following elements need to come together in a new framework:

- Local government should be trusted to set its own expectations in regards to acceptable behaviour that aligns with community expectations.
- High level matters of misconduct including examples of bullying and harassment should be referred to and dealt with by a body outside of local government. Further work needs to be done to define such a body.
- The majority of lower-level behavioural issues should be dealt with at the local government level, either by council or a local government appointed panel.
- There need to be adequate sanctions for bad behaviour. This should include financial penalties and expulsion from a meeting.
- Mayors require expanded powers to manage behaviour in their chambers to ensure that meetings are not disrupted. This is not intended to be a measure that would stifle robust and respectful debate.

While local government needs to be responsible for its own behaviour, we can't deliver effective change on our own. We will need the support of the next State Parliament to amend legislation and empower councils to quickly and effectively deal with bad behaviour when it arises.

Best practice audit committees

Each council is required to establish an Audit Committee to, among other things, review the financial statements of the council, provide advice on council 's Strategic Management Plan and Annual Business Plan and review the adequacy of council's internal controls and financial management systems.

Since 2007, when an audit committee for each council became required, these committees have become embedded as an important part of local government's financial and governance performance measurement framework.

Many councils have voluntarily expanded the role of their audit committee beyond what is legally required. Each audit committee must have at least one independent member and it is widely acknowledged within the sector that having more than one independent member, including an independent Chair is best practice.

The way in which many councils have established their audit committees demonstrates that a heavy-handed legislative response is not always required to achieve positive change within local government.

The LGA proposes to use a best practice approach to encourage councils to make the best use of their audit committees. A best practice model would include:

- Diversifying the skill sets and knowledge of audit committee members;
- Appointing an independent chair;
- Additional responsibilities such as reviewing draft strategic management plans, rating practices; performance monitoring, the quality of financial management, and the council's use of public resources; and
- Empowering the chair to make public statements on the audit committee's work and findings.

Part of the LGA's work will be to review the availability and costs of attracting qualified and skilled members to council audit committees, particularly in country areas, and to propose solutions that assist all councils to achieve best practice standards. This might include the option of a regional or 'shared service' approach to establishing audit committees in regional areas.

It would need to be acknowledged that there might be barriers in some councils to fulfilling all best practice recommendations, and appropriate exemptions would need to apply.

Standardising external audits

All councils must appoint an external auditor to review and provide an opinion on the council's financial statements and a separate opinion on the adequacy of internal controls to provide reasonable assurance that the financial transactions of the council have been conducted properly and in accordance with law.

In some other states, the external auditing of councils falls within the remit of the state's Auditor General. The LGA has commissioned research and consulted with councils about the option of adopting this model in South Australia. We have found that while it may lead to some greater degree of consistency, the benefits would not outweigh the considerable additional costs to ratepayers.

An alternative approach to achieving greater standardisation would be allowing or requiring the Auditor-General to issue binding interpretations of auditing standards applicable to local government. This would ensure consistency between private sector auditors.

The LGA provides interpretation of accounting standards to the sector through the Model Financial Statements the use of which is mandated in Regulations. However these standards apply to local governments, not to auditors, who have their own professional standards to observe. However in some areas of practice auditors have had varying interpretations of their own standards. Therefore, further work is required by the LGA, in consultation with the SA Local Government Auditors Group and Local Government Financial Management Group to identify opportunities for further improvement, without duplicating existing measures or creating greater uncertainty.

The LGA will confirm its position on this reform option and any action that would be required by the next state government, within the state government's first 100 days.

Introduce a revenue policy

Current legislation requires councils to publicly report broadly on where their revenue comes from. Each council's annual financial statements distinguish revenue from:

- rates;
- statutory fees and charges;
- user charges;
- investments;
- grants;
- reimbursements; and
- "other".

However, councils are not required to adopt a revenue policy describing what mix, of this suite of revenue options, it proposes to adopt for each of its services and why it has made such choices. Such a policy primarily would focus on to what extent (for any given service) the council believes it would be appropriate for the costs of that service to be borne by users of the service, or spread across the broader community.

Such a policy would create a single point of reference to enable the community to understand how a council proposes to pay for each of its services and infrastructure over a period of time, taking into account rates, grants, fees and charges and commercial activities. This would help communities and stakeholders understand the revenue mix in local government and how constraints on one revenue source create pressure for revenue to be generated in other, often less equitable, ways.

Although such a policy would require revision from time to time, it is important that this must not create yet another compliance obligation for councils, as they are already committing considerable resources to preparing all of the plans, policies and documents required by legislation. Introducing a new revenue policy should be accompanied by a review of existing requirements for other policies and reporting requirements to achieve the principle of simpler regulation.

A commitment is sought from the next government that a review will be undertaken to find opportunities to streamline and consolidate existing council obligations to prepare multiple policies and reports.

Diversifying local government revenue

Adopting a revenue policy will not of itself address the issues that councils face in generating the revenue required to maintain and improve standards of services and infrastructure. Local government is always under pressure to reduce reliance on rating revenue to fund community services and infrastructure. While councils must continuously review expenditure to make sure it is as efficient as possible, the settings on revenue side of the equation also need to be addressed, such as the fact that

local government in South Australia historically receive less state government grant funding per capita than local government in other states.

Additional capacity for councils to diversify revenue streams would be assisted by the following actions being undertaken as a priority:

- Conduct a comprehensive review of local government fees and charges regulated by the state government to establish modern price setting principles which promote efficiency, flexibility and fairness in service delivery;
- Review the mandatory rate rebates that councils are compelled to provide;
- Establish service level agreements for the delivery of state services by local government including agreed responsibilities, cost sharing and funding arrangements;
- Joint advocacy between state and local government for South Australia to receive a fair share of federal government funding;
- Review levels of state government grant funding provided to local government and ensure that this level is at or above the national average; and
- Reviewing the legislative settings around council participation in commercial activities, particularly when regional subsidiaries are formed, to ensure they are not unreasonably restricting opportunities for councils and communities.

Best practice service reviews

To build trust, communities require certainty that councils are delivering the right services at the right cost. A best practice program of services reviews with strong community engagement will assist in building community confidence and demonstrating efficiencies.

Councils already undertake regular reviews of key services to ensure they are meeting community needs, being delivered in an efficient manner and not impacting on the long-term financial sustainability of the council. Sometimes difficult and unpopular decisions need to be made about reducing or consolidating services for the sake of greater efficiency and sustainability. It is important that these decisions about the range and level of local services provided remain in the hands of councils and their communities.

While the legislative framework should set our clear expectations regarding continuous improvement and service efficiency, it should not limit the sector to one prescribed approach to, or frequency of service reviews.

It is proposed that the LGA develop a best practice guide to undertaking service reviews. Service reviews should consider service levels, unit costs, community demand, community satisfaction, alternative providers and links to financial sustainability. Standardising the approach to measuring and reporting these factors will assist councils and communities to understand the value of the financial and community value of the services delivered.

A prescriptive approach to undertaking service reviews must be avoided to ensure that efficiency gains are not eroded by additional red tape and compliance costs. There is an opportunity for the joint State-Local Government Simpler Regulation Taskforce established between the LGA and Department of Premier and Cabinet to advise on opportunities to streamline processes.

Supporting new boundary reform processes

The *Local Government (Boundary Adjustment) Amendment Act 2017* was passed by the Parliament in August 2017. While the LGA will not support any push for forced council amalgamations, we supported the passage of this legislation as it will give councils and communities that want to review their boundaries the benefit of a more transparent, rigorous and independent assessment and decision making process.

The new provisions are not scheduled to come into effect until 1 January 2019. However, there is a considerable amount of work required to develop guidelines, procedures and templates to implement these changes.

The next state government must commit adequate resources for the Local Government Grants Commission to progress this work, as a priority, in consultation with councils and communities.

Industry-wide industrial relations framework

The LGA has started looking at opportunities to streamline processes within local government through an industry-wide industrial relations framework which enables a culture of meaningful, open and respectful engagement between employees, management and unions.

Our work to date demonstrates there is an opportunity to align the sector workforce through a modernised industrial relations framework. An aligned workforce will provide individual councils with continued success and simultaneously deliver wellbeing to employees through shared values and commitments; support individual council's strategic and business plans; secure a multi-skilled and engaged workforce; foster flexibility and continuous improvement in the local government sector; enhance productivity and significantly reduce duplicated costs and effort.

The LGA has established a working group to progress this objective and will confirm its position on industrial relations and any support required from the state government within the first 100 days of government.

Review representation reviews

The *Local Government Act 1999* requires councils to carry out "representation reviews" as scheduled by the Minister under the regulations (approximately every 8 years). During these reviews councils must consider options relating to:

- The composition of the council, including the number of council members
- Whether or not the council should be divided into wards
- The size and boundary areas of wards, if they exist

A council may also use this process to change its name, change the name of a ward or change the area of the council.

Based on advice from the Electoral Commission of South Australia (ECSA), the LGA understands that some councils have experienced difficulty obtaining the services of appropriately qualified consultants to assist them with the workload. Some councils have had to undertake multiple public consultation processes as a result of community feedback and changing options. Council members also face the challenge of having to make controversial decisions on potential changes to the composition of a council that might affect their own positions.

Most councils required assistance from ECSA to comply with the extensive technical requirements set out in section 12 of the Local Government Act in order to enable them to achieve certification by the deadline date.

Representation reviews are an important feature of local democracy. Given that ECSA has indicated that it is reviewing the efficacy of current processes and its role in supporting councils to undertake representation reviews, the LGA considers that it is timely and appropriate for a broad review to be undertaken.

The LGA is calling on the next state government to work with ECSA, the LGA and councils to review the technical and process issues and decision-making structures for representation reviews.

Local Government Elections Reform

Local government has participated in a lengthy review of the *Local Government (Elections) Act 1999*, which is yet to result in legislative change being achieved. The LGA and councils have made a number of submissions in relation to technical issues that need to be addressed, as well as more substantive policy matters. As a priority, the Local Government Association is calling on the next state government to introduce amendments to the Local Government Elections Act that achieve, among other things, the following policy outcomes:

- Establish a framework which would enable electronic voting to be used for future elections, should a viable and cost effective system become available;
- Create a 'level playing field' for disclosure of information. In other words, where existing council members are required to disclose information publicly, all candidates for election should be required to disclose the same information during the election process.
- Enable all candidates to have access to electronic copies of the voters roll; and
- Voters should be made aware of whether or not a candidate for election resides in the area of the council for which he or she is standing. This can be achieved by inclusion of 'tick box' to reveal whether or not the candidate resides in the area;

The LGA can supply further details of the raft of more technical matters that also need to be addressed.

A delayed commencement would be required for any reforms that could not feasibly be implemented in time for the council elections in November 2018.

In relation to state elections, the LGA supports and calls for reform that would require council members seeking election to the State Parliament to stand down from their position on council with their allowance suspended throughout the election campaign period.

Delivering Change

Delivering this change agenda would be shared responsibility between the Parliament, state government, LGA and councils.

We believe that local government reform has been held back in recent years by the limited resources allocated to the Office of Local Government. The LGA reinforces the call made through previous budget submissions for expanded capacity within the Office of Local Government to expedite and deliver significant reforms. Consideration should also be given to the potential expansion of the role of the Local Government Grants Commission, as an independent body with a deep understanding of local government, to assist with the implementation of local government reform.

While the full implementation of this program will extend beyond the first 100 days of government, the priority actions that can be achieved with the right level of resourcing are summarised below.

First 100 days Agenda

In their first 100 days, the next Government of South Australia should prioritise the following actions to achieve sensible local government reform:

- Hold a joint 'Leaders' Summit' with the LGA to shared understanding of the challenges and opportunities facing local government over the next four years.
- Commit resources to a sophisticated local government benchmarking framework to be delivered by local government, for communities.
- Work with the local government sector to further develop a proposal for a strengthened Code of Conduct framework and commence consultation with councils on the legislative changes required to implement change.
- Receive and consider the LGA's position on standardising external audits.
- Maintain the State-Local Government Simpler Regulation Taskforce and task it with finding opportunities to reduce red tape associated with compliance processes and the multiple policies and reports required under the *Local Government Act 1999*.
- Conduct a comprehensive review of local government fees and charges regulated by the state government to establish a cross-government modern price setting principles which promote efficiency, flexibility and fairness in service delivery.
- Review the mandatory rate rebates that councils are compelled to provide.
- Review levels of state government grant funding provided to local government and ensure that this level is at or above the national per capita average.
- Commence a review of the legislative settings around council participation in commercial activities, particularly when regional subsidiaries are formed, to ensure they are not unreasonably restricting opportunities for councils and communities
- Commit sufficient resources to the Local Government Grants Commission to commence preparations for the operation of new boundary reform processes.
- Receive and consider the LGA's position on a sector-wide industrial relations framework.
- Commence a review of the 'representation review' processes outlined in the Local Government Act and consult with local government and ECSA on options for positive change.
- Introduce a Bill in the Parliament to amend the *Local Government (Elections) Act 1999*.

LGA of SA Analysis of the Local Government (Rate Oversight) Amendment Bill 2018

The Bill was provided to councils on 18 June 2018. The key elements of Bill were highlighted in the LGA President Newsletter, 19 June 2018, as follows:

- The Essential Services Commission of South Australia (ESCOSA) will be responsible for making rate cap determinations, assessing applications from councils for variations to the rate cap and reporting on the outcomes of the system.
- ESCOSA will determine the basis of the rate cap. For example, whether it will relate to a price or particular index (CPI, LGPI etc) and whether the cap will include any efficiency or productivity component. The details of how the rate cap will be determined will be subject to ESCOSA guidelines that are yet to be developed.
- A cap may be determined for councils generally, a class of councils or individual councils. There is no definition provided of a 'class' of councils.
- The cap will be applied to a 'base standard rate', which is a nominal rate that is arrived at by dividing the total annualized general rate revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June). This model accounts for growth in the number of rateable properties over the course of a year.
- A council may apply to ESCOSA for a variation from the rate cap for a maximum period of up to 5 years. In applying for a variation, councils will need to provide the reasons for the variation application, evidence of community consultation, an assessment of the likely impact on ratepayers.
- Councils will be expected to make efficiencies across their operations before applying for a rate cap and will need to demonstrate they have considered funding priorities and alternative sources of revenue.
- Consistency with long term financial plans and infrastructure and asset management plans will be a critical component of an application for a variation.
- ESCOSA may charge councils a fee for assessing a variation application and applications will need to be lodged by 31 March.
- Further details of the variation process will be provided through ESCOSA guidelines that are yet to be developed.
- Separate rates and service rates and charges are excluded from the rate cap calculation, but a council must inform ESCOSA if they proposed to introduce a separate rate or service rate or charge as this will be taken into consideration when they set the primary rate cap for that council.
- ESCOSA must monitor and review councils' compliance with the system and prepare reports on the effects of rate capping on councils and any trends that may arise as a result of the rate capping scheme.
- The Minister may take action in relation to a council under Section 273 on the basis of a report by ESCOSA. Currently this provision includes ICAC, the Auditor-General and/or the Ombudsman.
- A review of the legislation will be required before 31 December 2023 (five years from the proposed commencement).

LGA of SA Analysis of the Local Government (Rate Oversight) Amendment Bill 2018 – please also refer to the State Government's accompanying Explanatory Paper.

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
<p>Clause 4—Amendment of section 3—Objects</p> <p>The Bill amends section 3(f) of the Act to clarify that the objects of the Act are to encourage local government to provide appropriate services and facilities to meet the present and future needs of local communities while also ensuring that these are supported by appropriate financial contributions by ratepayers.</p>	<p>There is no further definition or interpretation of what 'appropriate services' or 'appropriate financial contributions' may mean.</p> <p>This is a subjective issue, one which SA councils currently attempt to balance through public consultation policies that set out the steps councils will take to ensure interested community members are consulted where the act requires.</p>	<p>Councils already consult extensively to seek community views through engagement on annual business plans and budgets, and strategic management plans (long term financial and asset management plans), plus other matters identified in the Act or their public consultation policy.</p> <p>In Section 187(G) the process may require councils to undertake additional community engagement when seeking to apply for a rate cap variation and demonstrate their willingness and capacity to pay rates in accordance with the proposed varied rate cap.</p> <p>This may prove to be difficult for councils to achieve, noting the existing challenges councils face in receiving responses from the community when feedback/input is sought via consultations.</p>
<p>Clause 5—Amendment of section 123—Annual business plans and budgets</p> <p>The Bill amends section 123(2) of the Act to ensure that an annual business plan and budget released by a council states that the council has applied for or has received a rate cap variation for that financial year, if this is the case.</p>	<p>Timing will be a challenge as ESCOSA will publish rate cap by 31 December (or later if it chooses). Councils will need to submit variation requests to ESCOSA by 31 March which includes evidence of the community engagement process that has been undertaken by the council on the proposed varied rate cap.</p>	<p>This means that Council will need to consult on next year's Annual Business Plan prior to 31 March. However, councils generally consult on these plans in May/June. Moving this timing will mean that Councils are developing Annual Business Plan projects up to 6 months before the completion of this year's projects.</p>
<p>Clause 6—Insertion of Chapter 10 Part 1A – Rate Oversight</p> <p>The Bill proposes the inclusion of Part 1A to Chapter 10 of the Act — Rates and Charges. It inserts sections 187C–187K of the Bill, which contain most of the detail of the rate oversight (capping) system.</p>	<p>There is no reference in the Bill to any provisions of an automatic review (at any level) of this chapter if there is other legislation / government policy decision that may affect these inclusions or require changes to the legislation. Such a provision would be expected for an issue that has the potential to be affected by a number of policy areas.</p>	<p>Councils need to consider the impact that future state legislation and other policies may have on councils' ability to perform their functions if rate capping is introduced. Any change in legislation or policy that increases costs for councils could have a greater impact in the future if councils cannot generate additional revenue to adequately fund new responsibilities.</p>

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
Sections 187C–187K of the Bill are outlined below		
<p>187C – Objects of Part</p> <p>This section states that the objects are:</p> <p>a) to ensure that there is appropriate oversight of the financial contribution of ratepayers for the provision of council services and infrastructure meet the current and future needs of local communities; and</p> <p>b) to ensure that a council has the financial capacity to perform its duties and exercise its powers.</p>	<p>As elected bodies, councils are accountable to their local communities.</p> <p>Having robust processes and legislative requirements for public consultation on council Annual Business Plans and Budgets means that local government already subject to community oversight and is arguably the most transparent sphere of government.</p> <p>The same oversight is not given to state and commonwealth budgets, as their considerations are subject to cabinet-in-confidence.</p> <p>The experience of rate capping systems in both NSW and Victoria is that council debt increases and they have less capacity to deliver services. This has occurred despite the availability of a rate cap variation process being available in both interstate rate capping models.</p>	<p>Placing oversight of financial matters in the hands of ESCOSA and the State Government will ultimately diminish the local decision making of Councils. Decisions about service levels and funding priorities will be referred to an unelected body that is not accountable to ratepayers and the democratic process.</p> <p>It can be inferred that ‘perform its duties and exercise its powers’ is a reference to the statutory responsibilities of local government. Many of the service provided by councils are discretionary and are provided - following public consultation - to meet the needs of and enhance communities. In some circumstances services are provided by councils because there is no alternative provider within the local community, or other government funding/support has been withdrawn. Some of these services may not meet an independent ‘essential service’ or ‘value for money’ test, but they are responding to community need.</p> <p>Through setting a rate cap and determining variation applications, ESCOSA council have more influence than local communities about the services they will receive.</p>
<p>187D – Interpretation</p> <p>This section sets out definitions for the various terms and phrases used throughout the Bill, with particular reference to the definition and formula of ‘base standard rate’ and ‘capped standard rate’</p> <p>Base Standard Rate is the total annual revenue recoverable from general rates as at 30 June in the base year, divided by the number of rateable</p>	<p>These formulas take into account the number of rateable properties in any given year. As such, the rate capping model gives appropriate consideration to residential and business growth within the area of the council.</p> <p>The LGA considers the methodology for ‘revenue recoverable from general rates’ to be revenue from General Rates (Gross) plus Penalties for late payment minus Discretionary</p>	<p>The relevance of the Base and Capped Standard rates for councils is explained in the following sections.</p>

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
<p>properties in the base year.</p> <p>Capped Standard Rate is the total annual revenue from general rates as at 1 July in the capped year, divided by the number of ratable properties in the capped year.</p>	<p>Rebates, Remissions and Write-Offs, and Mandatory Rebates.</p>	
<p>187E - Primary rate cap determination</p> <p>Refer to the Explanatory Paper for a detailed description of the 'Primary rate cap determination'.</p> <p>The Bill states that a primary rate cap determination may apply to councils generally or a class of councils, or a particular council.</p>	<p>The Bill states that ESCOSA must set a primary rate cap by 31 December before the next capped year, or by another date set by ESCOSA. This means that ESCOSA could potentially specify a date at any point up 30 June (being the day before the capped year), which would severely limit councils ability to consult on and set an annual business plan and budget.</p> <p>The Bill does not require ESCOSA to use a particular index (CPI or LGPI) as the basis for the primary rate cap. As this is a matter of discretion for ESCOSA, there is no certainty that a consistent or fair and reasonable approach will be taken to setting the cap each year.</p> <p>ESCOSA may consider including an efficiency or productivity component when determining the primary rate cap. Note that the formula used by the Victorian Essential Services Commissioner has a 0.05 per cent efficiency factor for 2017-18 and 0.1 per cent for 2018-19.</p> <p>As there is not detail available about the calculation of an annual cap, it is not currently clear whether there will be a requirement for ESCOSA to consider 'asset renewal gaps' as</p>	<p>Noting the wording of the legislation states that ESCOSA 'may' apply a rate cap determination to councils (generally/class/individual). Given this does not say ESCOSA 'must' apply a rate cap determination, councils may wish to test whether there is scope for no rate cap to be applied based on their previous performance and rate increases.</p> <p>Setting a primary rate cap that recognises growth in rateable properties over the year is a positive intention.</p> <p>However, more relevant for councils will be the index (CPI/LGPI) or other matters ESCOSA takes into consideration when setting a rate cap. This is entirely open to interpretation and the discretion of ESCOSA (subject to any directions provided by the Minister).</p> <p>There is no information available on the criteria to be used by ESCOSA in making these determinations (which could potentially change year-to-year) or the information available to ESCOSA to inform their decisions. This creates a potential risk of significant red tape and duplication of reporting requirements on councils.</p> <p>The conditions that may trigger a primary rate cap to be determined for any particular council may be viewed as a punitive response.</p> <p>There is potentially only five month gap between declaration of current year's budget (July/August) and then having an advanced plan for next financial year (in December of same year when ESCOSA declares rate). This will place pressure on council resources and may result in increased administrative costs. This also</p>

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
	<p>part of their determination.</p> <p>While a primary rate cap determination may apply to councils generally, a class of councils, or a particular council, the Bill outlines that ESCOSA will only make a determination to apply a rate cap to a particular council if there is cause, such as non-compliance with the previous rate caps, or if there is a proposal to change the basis on which rates are assessed against land, if a separate rate is declared or taking into account the level of fees or charges imposed by the council.</p>	<p>reduces ability of CEO to shift/adjust for unexpected circumstances (project overruns or delays/new funding availability/asset failures/force majeure events).</p>
<p>187F – Rate cap variation determinations</p> <p>The Explanatory Paper confirms that “Along with the setting of a primary rate cap, an ability for councils to apply for a variation on a primary rate cap is critical to achieving the objectives of the rate oversight system.”</p>	<p>This section enables ESCOSA to receive and assess council applications for a variation of a primary rate cap from councils. Applications must be received by 31 March of the year before the capped year.</p> <p>Councils may apply for a rate cap variation for 1 or more years up to a maximum of 5 years.</p> <p>Councils subject to an individually determined primary rate cap (see punitive comment above) will not be able to seek a rate cap variation (noting that in these circumstances the relevant council will be consulted before a cap is set).</p>	<p>Although a primary rate cap may apply generally to all councils or to a class of councils (class is not defined) applications for rate cap variations can only be made by an individual council.</p> <p>There is no specification on how long ESCOSA will take to consider applications to vary the rate cap or if the application is denied whether the council has any right of review or appeal.</p>
<p>187G – Rate cap variations determination applications</p>	<p>ESCOSA can set a fee for an application, not in excess of the reasonable costs of determining</p>	<p>While it is not clear, councils would be significantly impacted if they are expected to cover the costs of administering the overall rate</p>

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
<p>The Bill is specific in the detail required in applications, which are also set out in the Explanatory Paper. In summary, councils must specify:</p> <ul style="list-style-type: none"> • Number of financial years • Reasons for variation • Proposed varied rate cap for each specified year (could be different over more than one year) • Community engagement process • Likely impact on ratepayers, their capacity and willingness to pay • Considerations of reprioritising spending measures and alternative funding options – plus explanation of why these are not suitable • How varied rate cap represents value for money • Consistency with council's long term financial management plan. 	<p>the application. There is no further detail on this point, or on the broader issue of how ESCOSA will be funded to administer the rate capping system. In Victoria, these costs were nearly \$3 million in 2016/17.</p> <p>There is no information on when ESCOSA's guidelines for applications to vary a primary rate cap and the community consultation required will be available.</p> <p>There is no indication of what weighting/ importance ESCOSA will place on any criteria when assessing applications for variations.</p> <p>The current criteria appears to place emphasis on 'value for money' however there are some services/infrastructure that Councils provide which it may be hard to justify are 'value for money', Council's provide them essentially as a community service obligation (ie. local government does it because the private sector doesn't). Consideration should be given to expanding the criteria regarding 'How varied rate cap represents value for money' to include a reference to 'and/or achieves increased/ enhanced community/social outcomes'.</p> <p>The Bill does not outline a process for councils to seek a review or appeal ESCOSA decisions on variations. This is a significant issue/omission, insofar as other individuals, industries and requirements set out in the functions of ESCOSA has the legislative right to</p>	<p>capping system. If they are, this would be a further example of cost shifting.</p> <p>It is uncertain if councils will have the ability to apply for any changes to previously approved variations – for example if there is a change in circumstances, events or an unforeseen impact on the council's long term financial management plan.</p> <p>Councils will be disadvantaged by the lack of review and appeal provisions in the Bill.</p>

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
	review and appeal under Part 6 – Reviews and Appeals in the Essential Services Commission Act 2002.	
<p>187H – Ministerial requests and directions</p> <p>The Bill states that the Minister can direct ESCOSA to consider matters relating to:</p> <ul style="list-style-type: none"> • A primary rate cap determinations, including a cap that may apply to a particular council • Applications for a rate cap variation determination <p>While the Bill enables the Minister to request or direct ESCOSA to consider matters, the Explanatory Paper suggests that ESCOSA will maintain its discretion as to whether to act.</p> <p>Section 187H requires ESCOSA to publish copies of any Ministerial request direction on its website, to ensure the appropriate level of transparency.</p>	While transparency of Ministerial direction may be maintained through Section 187H, the Bill provides Ministerial powers that seem to contradict the independent nature of ESCOSA.	Councils and local government will need to be mindful that given the ability for broad ranging Ministerial direction, the determinations of ESCOSA may be more aligned to recommendations to the Minister. This may allow for politically motivated decision making.
<p>187I – Council must notify ESCOSA of certain matters</p> <p>The Explanatory Paper confirms that the proposed rate capping system in the Bill would only apply to general rates revenue. It considers that separate rates and other feed and charges are already restricted under the Local Government Act. This section sets requirements to ensure ESCOSA can set a future rate cap to a particular council if they are of the view that they are using fees and charges unreasonably.</p>	This section restricts council ability to change the basis on which rates are assessed against land, declaring separate rates or imposing a service rate or annual service charge. It requires councils to notify ESCOSA so that they can consider applying an individual primary rate cap to that council. Failure to inform ESCOSA will not affect the validity of rates or changes, but will likely trigger an individual primary rate cap in the following financial year.	As they do now, councils will need to ensure that any review of separate rates, fees and charges are done in a transparent way, in consultation with their community.

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
<p>187J – Compliance with rate cap determination</p> <p>This section requires councils' compliance with any rate cap determination made by ESCOSA.</p>	<p>The Bill states that failure to comply with a rate cap determination does not affect the validity of any income in the financial year in which the failure occurred.</p>	<p>Councils need to be mindful that in the case of non-compliance with a rate cap, the validity of general rate income is only guaranteed for the same financial year.</p> <p>There is the possibility for ESCOSA or the Minister to make a retrospective adjustment the following year through a primary rate cap that applies to that individual council.</p> <p>It is important to note Section 187E (6), which states a primary rate cap determination may be a positive or negative amount. This means a council could technically be required to ensure the general rates revenue for one financial year is actually less than the previous year.</p>
<p>187K – Administration</p> <p>This section provides ESCOSA with powers to perform the functions of the rate oversight system.</p> <p>Additionally, ESCOSA will be required to:</p> <ul style="list-style-type: none"> Monitor and review councils' compliance with the system; Assess the effect of rate capping (both the primary rate cap and variations) on councils, and identify any trends that may arise from the application of the rate oversight system across local government. <p>ESCOSA will make a report on these matters to the Minister every two years.</p> <p>Reports received by the Minister from ESCOSA must tabled in Parliament, and may also be published on ESCOSA's website.</p>	<p>Noting that councils are directly accountable to their communities, there is no comment on how will ESCOSA be accountable for the decisions they make that impact local government? Beyond a report tabled in Parliament, who is ESCOSA accountable to?</p> <p>ESCOSA has been given a function to assess the effect of primary rate cap determinations on the provision of services and infrastructure by councils, and the financial sustainability of councils. However, there is no detail on what support or change in approach there would be if these are affected in any significant way or if ESCOSA has serious concerns.</p> <p>Also, there is no detail on how the Government would support ESCOSA to develop a thorough and practical knowledge of local government before they start making decisions on the parameters of the rate capping model and</p>	<p>Councils should note that there is no detail on how much the rate capping system will cost to administer each year or how will this will be funded. There is a potential for further cost shifting from the State Government.</p>

Summary of the provisions of the Bill as outlined in Explanatory Paper	LGA of SA Secretariat comments	Potential issues for councils/local government
	determinations of a preliminary rate cap. Note that the Victorian ESC develops resources for councils and undertakes inquiries, studies and reviews as required.	
Clause 7 – Amendment of Section 273	Refer to comments on section 187J	
Clause 8 – Amendment of Section 303 Amends the Local Government Act to enable regulations to be made to deal with saving or transitional arrangements of the Bill	LGA comments will depend on future regulations.	
Clause 9 – Review Requires that the Minister review the legislation before 31 December 2023 (after 5 years operation)	There is no detail beyond a requirement to review the legislation, which does not appear to be linked to the outcomes of the rate capping system.	There is no sunset clause to the legislation. It is likely to remain in place once passed.

Some key questions - Local Government (Rate Oversight) Amendment Bill 2018

Primary rate cap determinations

- Has the State Government undertaken a Regulatory Impact Assessment, including consultation with relevant stakeholders about any unintended outcomes that may result, any implementation issues, and suggestions on how to monitor the effectiveness of the proposed rate capping model?
- What information would ESCOSA have to make a rate cap determination by December for the following financial year? Will this include up-to-date valuation data?
- What financial modelling has been undertaken to assess the impact of a rate cap on councils, in particular growth councils, smaller and/or regional councils? The LGA and SA councils will not be able to assess the impact of the proposed rate capping system on services and operations until we have specific detail and modelling.
- Will the State Government fund a comprehensive benchmarking program as advocated by the LGA?
- What role would the South Australian Local Government Grants Commission (LGGC) have, noting they are a trusted source of data and have a well-developed understanding of the local government sector?
- How would ESCOSA develop a thorough and practical knowledge of local government over the coming months before they start making decisions that have a significant impact on local government operations?

Variation applications

- When will ESCOSA guidelines be available and what assurances and processes would there be to ensure adequate and timely consultation with councils and the LGA on the guidelines?
- How much additional red tape and administrative costs would be generated by the processes required under the Bill, and are these processes practical and achievable for councils? Has any modelling been done on the costs to ratepayers of administering the system?
- What weighting/importance would ESCOSA give to criteria when assessing applications for variations? How would they treat unique community services that are being provided by councils because there is no one else filling an important need within their community – would these examples meet the test of ‘appropriate services’?
- Would councils have the ability to apply for any changes to previously approved variations?
- Would there be a process for councils to seek a review or appeal ESCOSA decisions on variations?

Monitoring and reporting

- How much would the rate capping system cost to administer each year? How will this be funded?
- Councils are accountable to their communities for the decision they make through democratic election processes. How would an independent regulator be held accountable by the community for the decisions they make that impact on local services, infrastructure and facilities?
- How would the State Government report publically on the outcomes of a rate capping system and what opportunity will there be for communities to provide their feedback on these outcomes?

Appendix 5

Presentation – Institute for Public Policy & Governance

Rate Capping in South Australia

Professor Roberta
Ryan and Dr
Joseph Drew

Institute for
Public Policy
and Governance

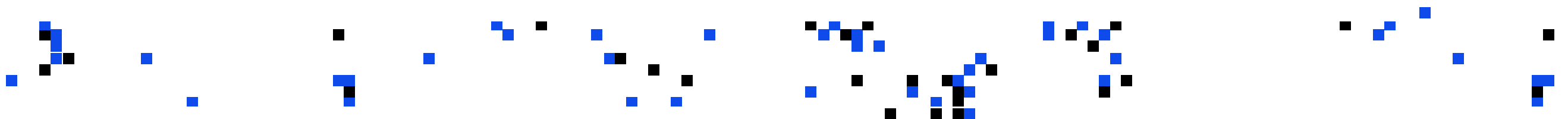
UTS

ABOUT UTS:IPPG

The Institute for Public Policy and Governance at the University of Technology Sydney (UTS:IPPG) is a leading group of researchers and practitioners in the areas of applied policy, social research, stakeholder engagement, and leadership.

IPPG undertakes applied social and behavioural and academic research, policy advisory, graduate education and professional development training.

The UTS Centre for Local Government (UTS:CLG), a leader in local government research, teaching and advisory, is part of the UTS:IPPG.



WHY LOCAL GOVERNMENT MATTERS

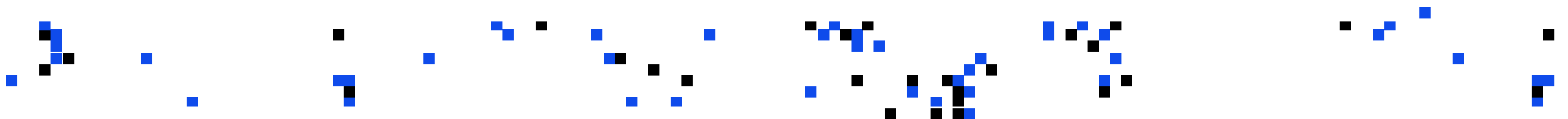
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Local government in South Australia

In 2016 the Centre for Local Government at the University of Technology Sydney (UTS:CLG) undertook research to investigate the value of local government to South Australians

The 2016 *Why Local Government Matters in South Australia* would benchmark perceptions and attitude towards local government against national findings from the 2014/15 *Why Local Government Matters* research project by the Australian Centre for Excellence in Local Government



Purpose of Study

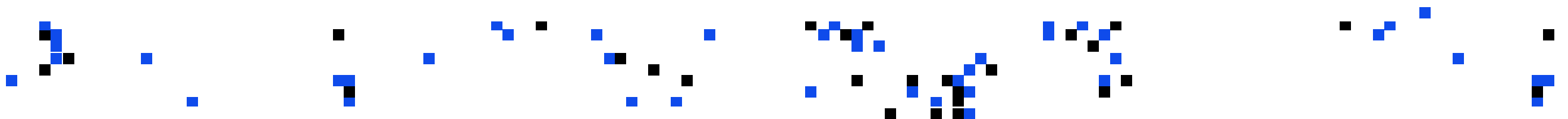
Determine if local government matters

Establish foundational understanding

Sector-influencing research

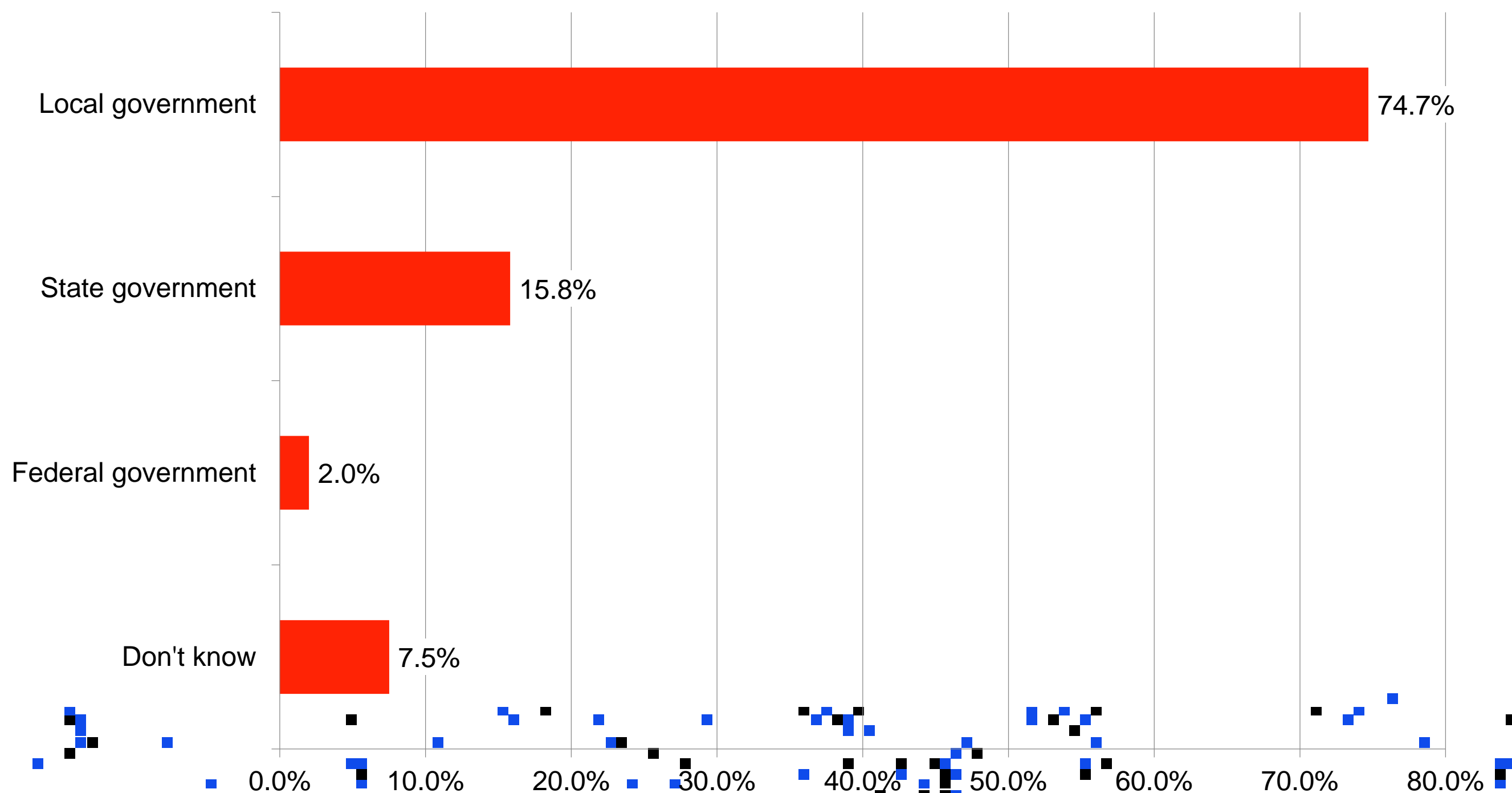
Establish baseline

This does not ask about individual councils and *is not* a community satisfaction survey or measure of performance



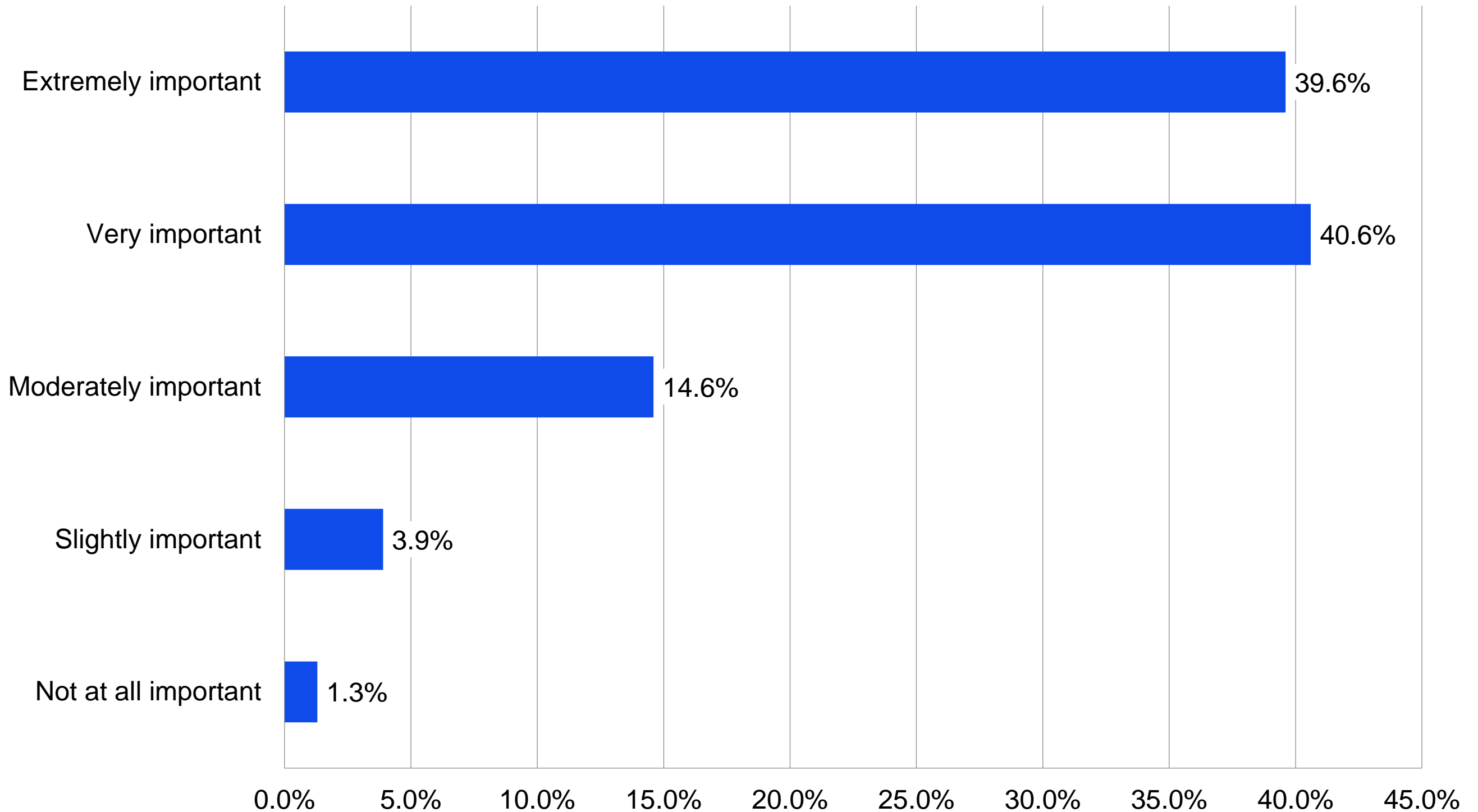
Level of government and decisions about the local area

Thinking about where you live, which level of government is best able to make decisions about your local area?



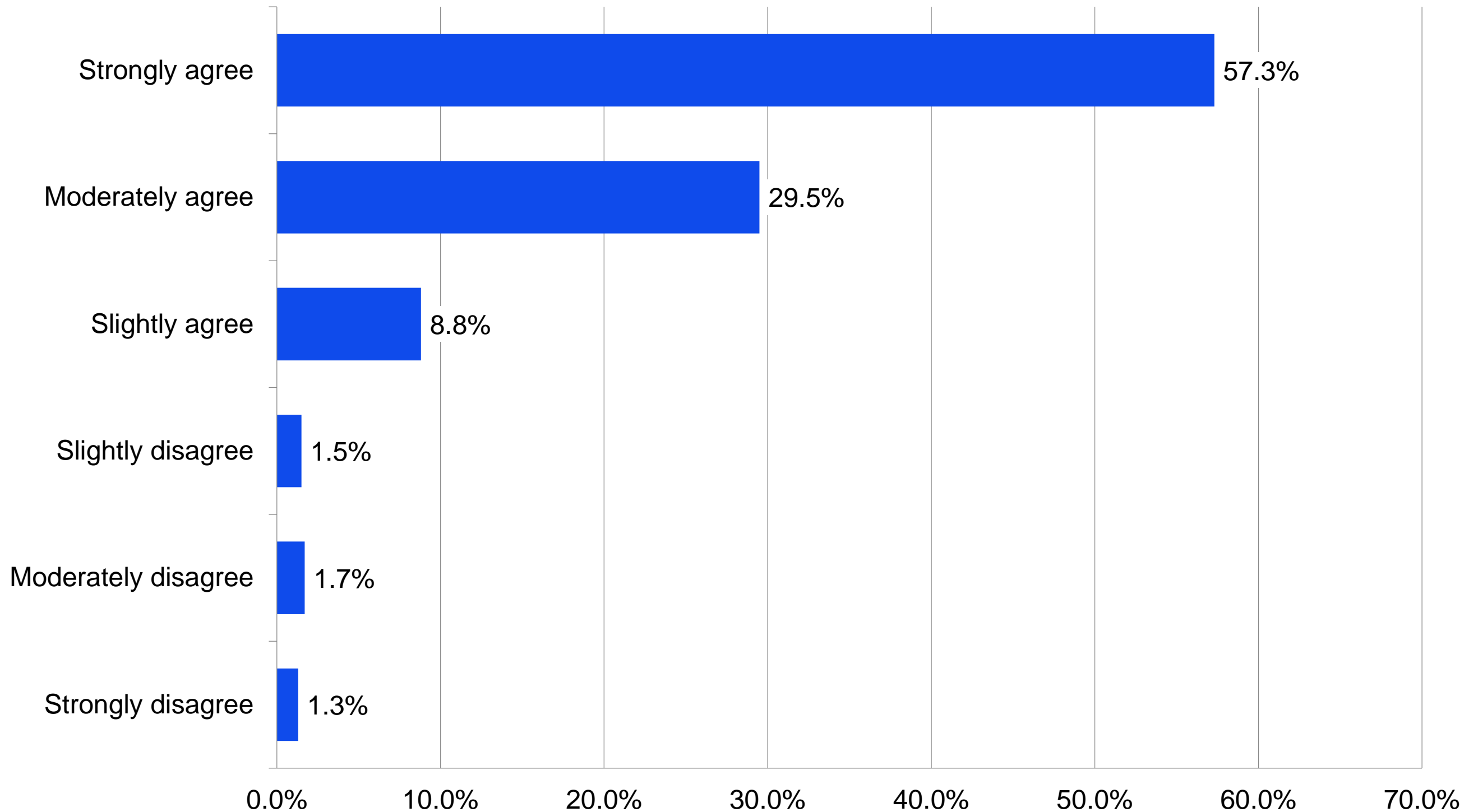
Most important thing LG does

Planning for the future



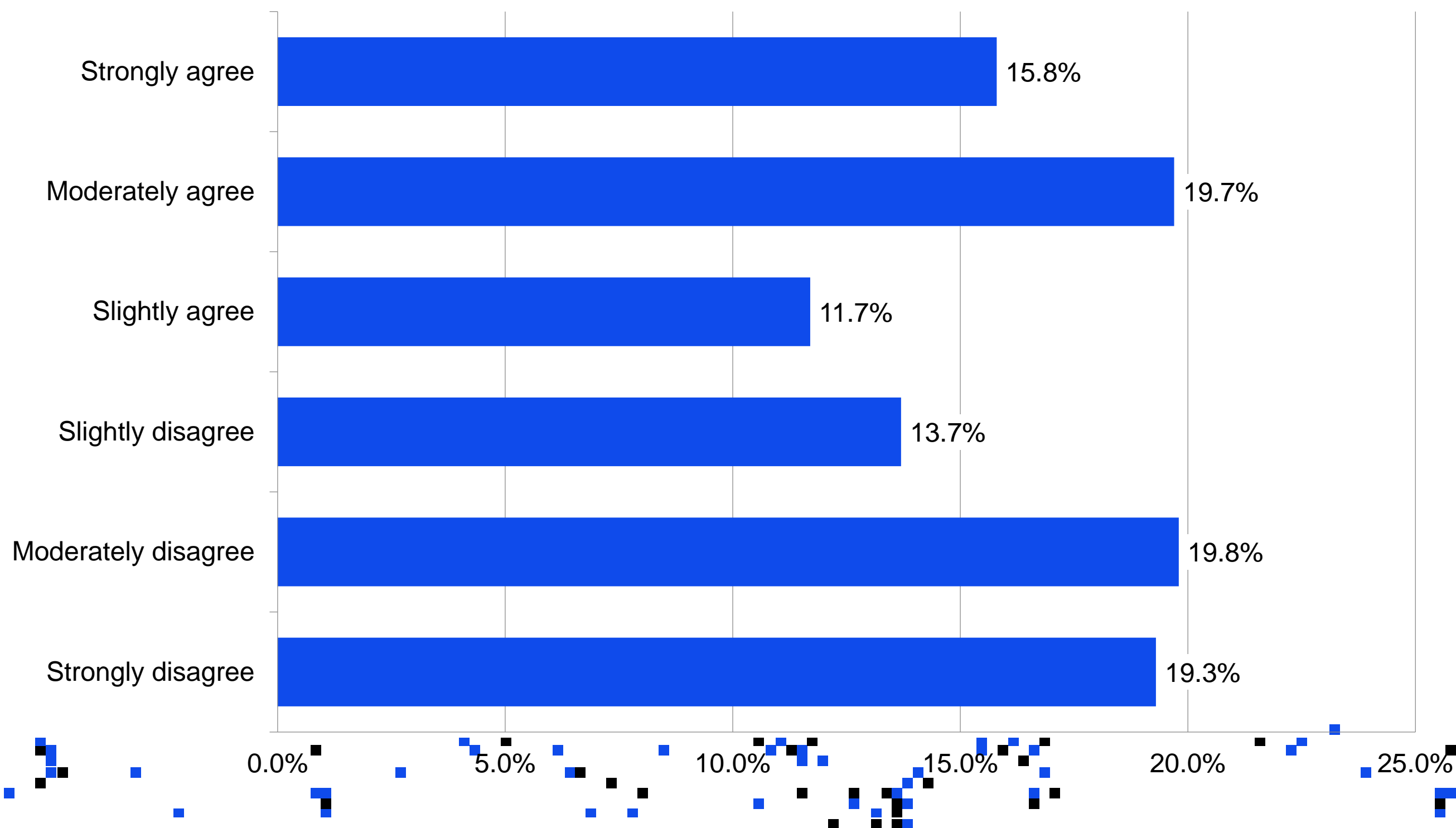
Role beyond service delivery

Government should be advocating for the needs of my local community



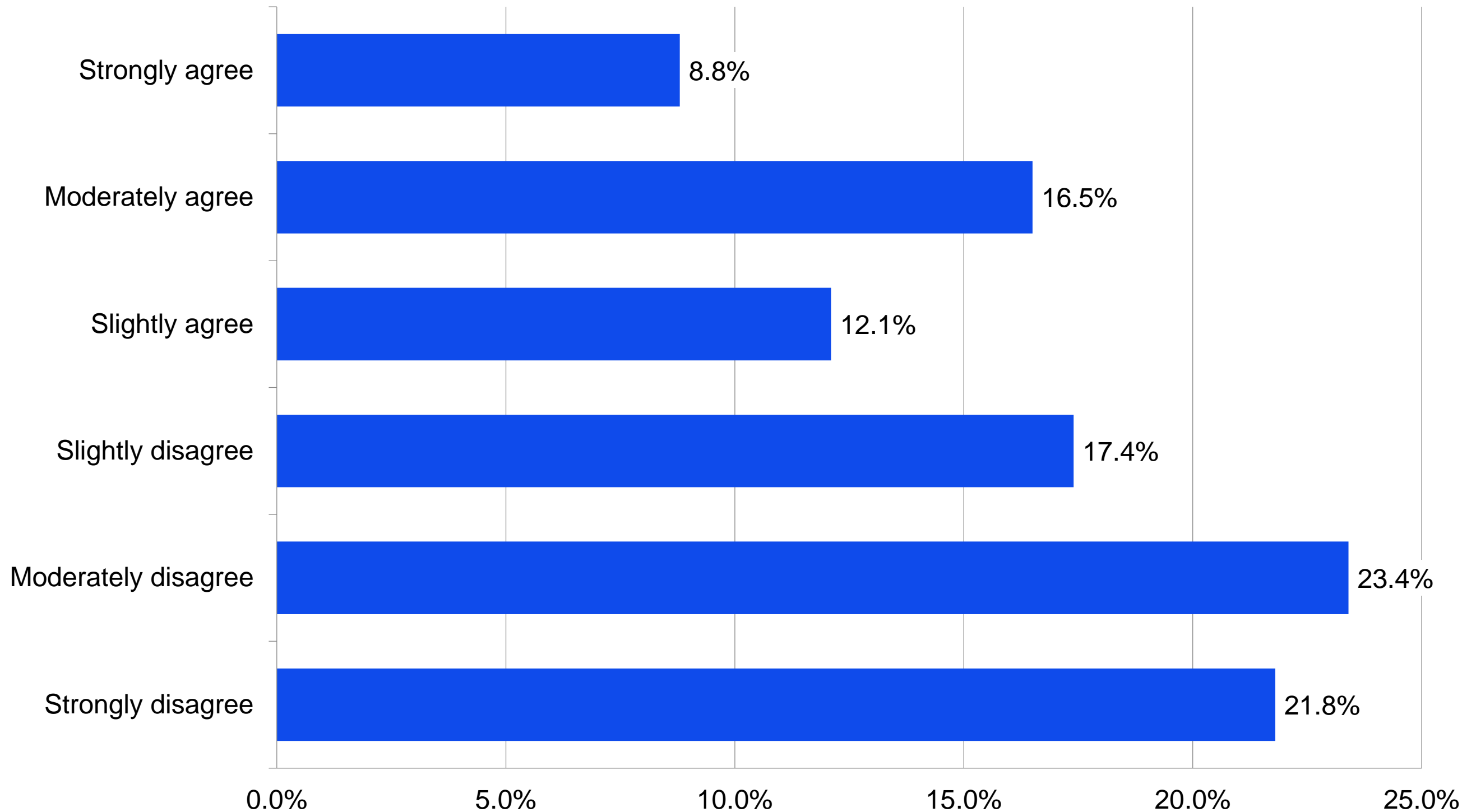
Public value

Decisions about how services are delivered in my area should be made primarily on value for money



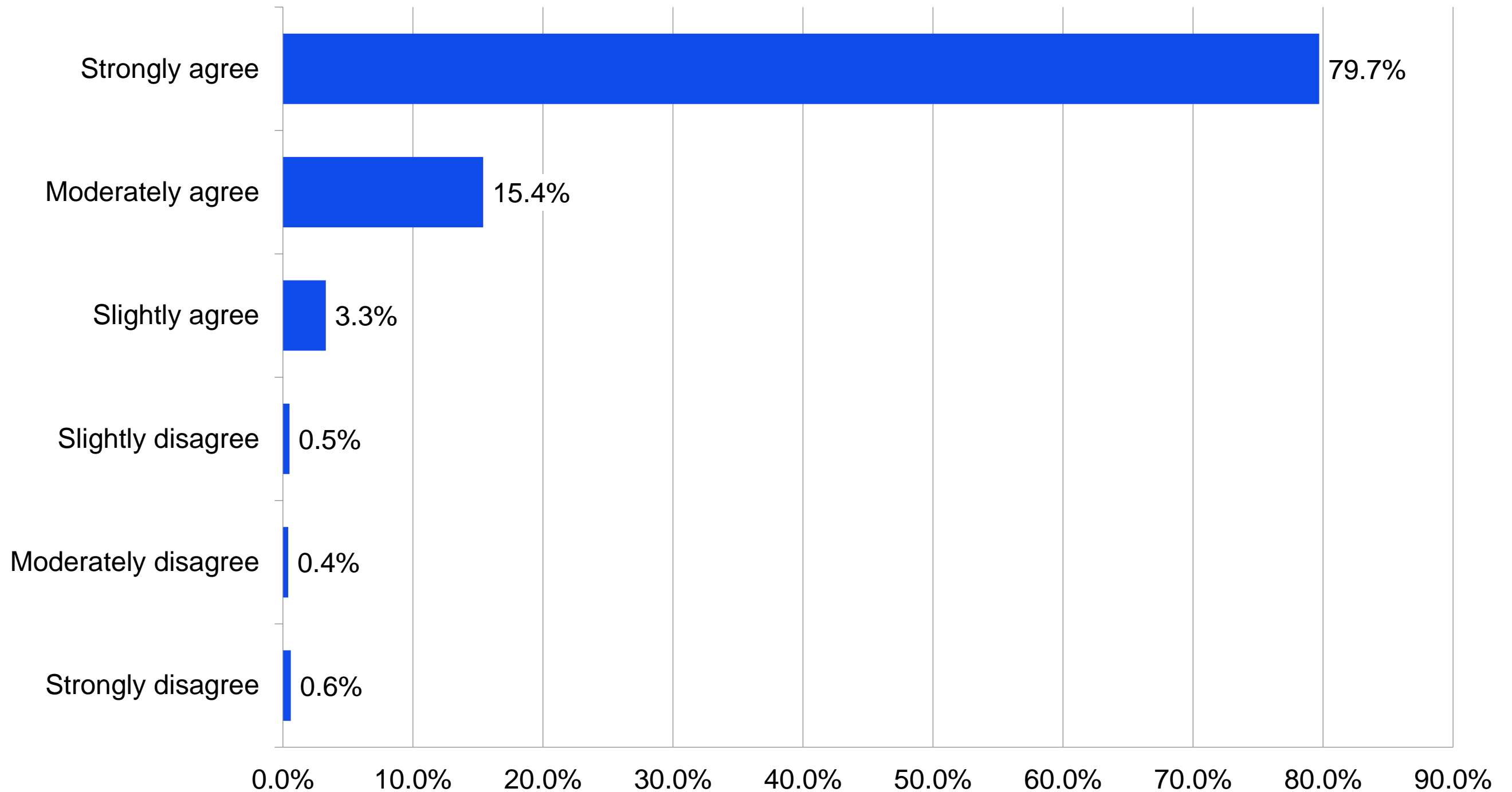
The role of the market in service delivery

The private sector delivers the best value services



Public value

I want governments to deliver services that contribute to a healthier and fairer society



Rate Capping in South Australia

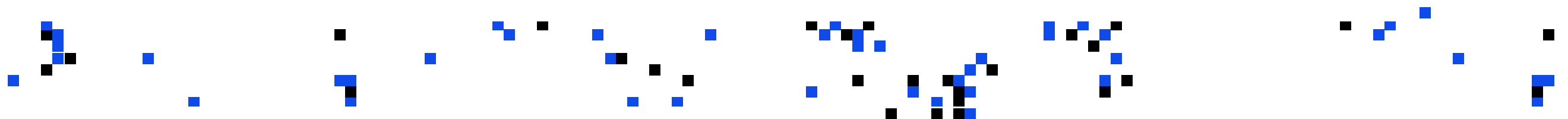
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Advantages of Rate Capping – HERE ARE THE ARGUMENTS

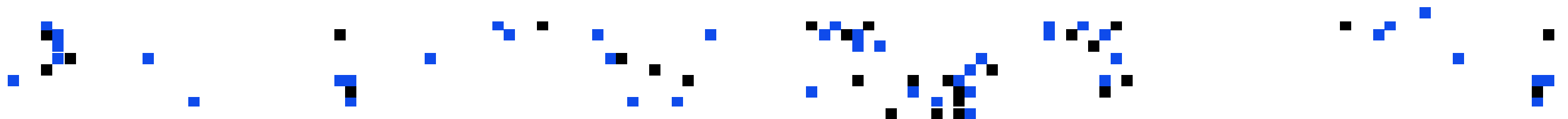
The scholarly literature nominates a number of reasons for contemplating rate capping:

1. Restricts coercive monopoly powers
2. Limits provision of non-core services, thus enhancing sustainability
3. Increased scrutiny (by rate capping authority), thereby reducing governance risk



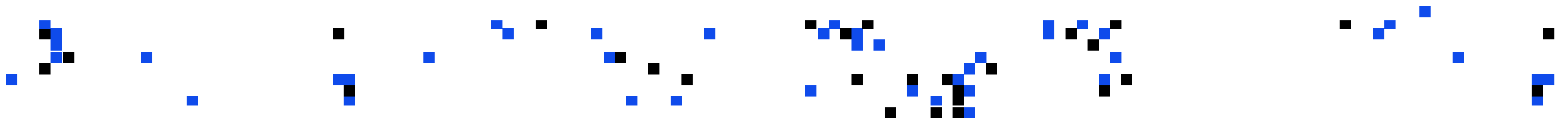
Advantages of Rate Capping

- 4. Reduces imposts on local government taxpayers
- 5. Increases efficiency by imposing discipline on local governments



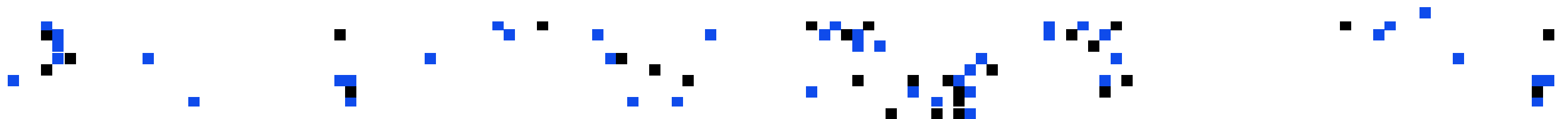
Disadvantages of Rate Capping – HERE ARE THE ARGUMENTS

1. Reduces financial sustainability
2. Limits capacity to fund new services
3. Limits capacity to address infrastructure backlogs
4. May encourage local governments to take on additional risk in pursuit of non-capped revenues



Disadvantages of Rate Capping

5. Creates room for 'blame shifting' and 'learned helplessness'
6. Gives rise to Fiscal Illusion
7. Removes autonomy from local communities

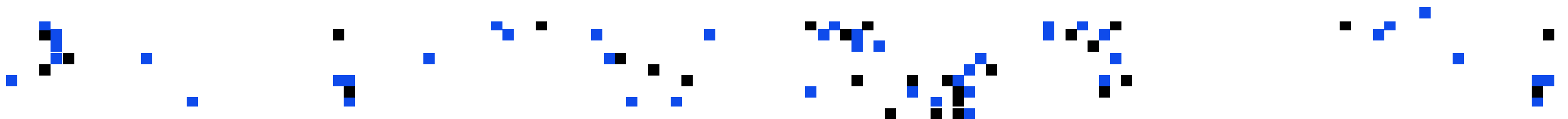


HERE IS THE EVIDENCE

- Very little Australian empirical evidence
- This research details empirical evidence that rate capping is associated with:
 - (i) higher levels of debt;
 - (ii) lower levels of infrastructure maintenance;
 - (iii) lower levels of inter-jurisdictional revenue effort equity.
- **There was no evidence of higher levels of efficiency.**

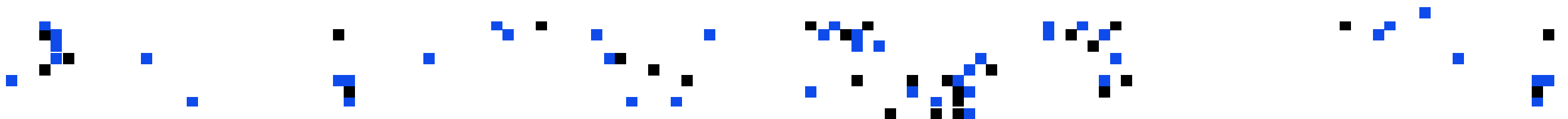
Proposed South Australian Legislation

- Pursuing variations to rate caps is an **expensive process** (in both a pecuniary and political sense), and experience attests that councils will largely shun the option
- The ESCOSA is given **almost unfettered autonomy**. This is problematic because it removes accountability from democratically elected Ministers and hands it to bureaucrats who have limited accountability
- Legislation acknowledges the implications of growth for expenditure, but **ignores growth during the period**. This could be easily addressed by using past growth rates to predict the number of rateable properties that are likely to exist at the end of the year.



Proposed South Australian Legislation

- Terms such as ‘appropriate use of debt’ and ‘efficiency improvements’ are potentially very problematic because they are not defined carefully.
- Debt capacity is currently not estimated in a rigorous empirical manner in S.A. or elsewhere in Australia.
- Efficiency improvements need to be much more than cost reductions, otherwise services may fall well below community need. **LG efficiency in S.A. is already very high (our recent work)**, although there is clearly a need for future monitoring and comparative analyses, to ensure that the legislation achieves this stated aim.



Alternatives to Rate Capping

Two theories for why *MIGHT* residents support rate capping:

1. **Agency Failure Theory**: local government taxpayers fear that local government representatives and executives will not be good stewards.
2. **Personal Finance Theory**: local government taxpayers do not *perceive* that they are getting good value for money relative to increases in imposts

Alternatives Addressing Agency Failure Theory

- **Reduce information costs, increase transparency** (more detailed performance monitoring data, more consistency in financial statement preparation, access to financial statements over a long horizon, information on revenue and expenditure included with rates notices)
- **More opportunities for sanctioning representatives and executives perceived to be poor stewards** (broader powers for Ombudsman and regulators, more frequent local government elections, independent audit committees where members are rotated frequently and have a remit to examine stewardship, newspapers and ratepayer associations in local government areas).

Alternatives Addressing Personal Finance Theory

- Greater emphasis on accurate **user pricing** for non-public goods
- Greater attention to **tailoring subsidies** for merit goods to user need
- Attention given to **removing** some current rating **exemptions**
- **Information on price subsidies**
- Allow for **quarterly adjustments** to rates, to reduce potential for rate shock

Gaps in Research

1. No existing study of rate cap gaming – the extent of same and what this means for the likelihood of rate capping achieving its aims
2. No extant study on debt capacity
3. No extant robust study of local government financial sustainability – especially with reference to rate capping
4. No robust contemporaneous study on Fiscal Illusion – this should be done on an empirical basis and augmented with targeted surveys of local government taxpayers.

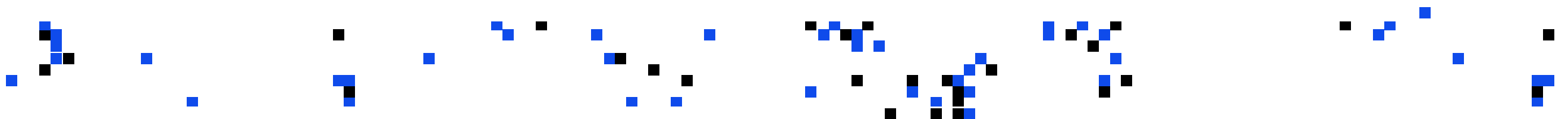
The Time to Act is Now

Important to address financial sustainability before implementation of rate capping.

Particularly important to get pricing right (employing either demand or supply side approaches) to avoid claims of gaming the rate cap (which may be made if pricing is introduced afterwards).

Important to review the level of subsidies currently offered

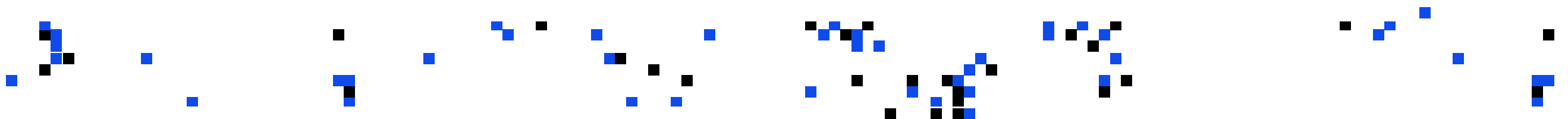
Critical to start educating ratepayers regarding the sources and application of revenue in S.A. local government



How UTS IPPG Can Help, Options:

Tailored workshop by internationally recognised scholarly experts in local government finance.

It may be prudent for SA councils to engage scholarly expertise for a critique of the proposal, and thus get as many of the problems in the legislation as possible flagged and addressed prior to implementation.



Thank-
you

Institute for
Public Policy
and Governance



Appendix 6

*Email from David O'Loughlin – President Australian
Local Government Association*

Attn administrations, please distribute to your Mayor or Chair, your Elected Members and CEO.

Dear All,

Next week our Council will consider the LGASA's request for us to choose to support or not support the Government's rate-capping proposal. There has been a lot of discussion and media around this proposal and, like many of you, I have given the topic much personal thought.

In my view, this proposal ceased to be about 'cost of living' pressures when the new Government refused to freeze their 15% waste levy increase, or to stop their NRM levy increases of up to 9%, or when they issued a China National Sword rescue package that denied ratepayers a single dollar of relief. They refused to act upon or even reduce any one of these cost pressures.

Sadly this is not the first time they have failed to help us fight cost of living impacts. In Opposition they barely lifted a finger to help us when Commonwealth pensioner concession funding was cut, or when Financial Assistance Grants were frozen, or when our road grants fell to the worst in the nation, or when broader community housing rebates were implemented, or rubble royalties were introduced or the recent Litter and Nuisance Bill was introduced, totally unfunded.

Instead of standing with us, fighting side by side against each of these cost impacts on our communities, they have pursued us.

The Government often justify their position by quoting rate increases over a ten year period. They fail to acknowledge the long period of adjustment we all had to make following the LGA's 2006 Financial Sustainability Review which found many of our councils were financially unviable and few were robust. In response we developed detailed Asset Management Plans and ensured they were funded via ten year Long Term Financial Management Plans. This took years to resolve, and cost money - in addition to the numerous cost impacts above.

They ignore the harsh reality that if Councils had failed financially, the State would have been obliged to step in - and it wouldn't have been cheap. If this proposal is about reducing the tax burden, note that Local Government taxes comprise only 3.6% of all tax revenue in Australia. State taxes total 16%, impacting households and businesses over four times more.

SA Government's expenditure is close to \$20b a year. Our sector's expenditure totals only around \$2b a year. And our average residential rates are among the lowest in the nation despite receiving among the lowest State and Federal grants in the nation.

If the Government's motivation is to reduce the cost of living, or the size of the tax burden, Local Government seems an odd place to start.

And how is a statewide rate cap going to account for differing council needs? Some have airports and other major revenue sources that offset rates for residents. Other have huge road networks but few rate-able properties to provide revenue. Some receive large federal grants, others very little. Some have coastal erosion issues, others flooding or bushfire risks. Some are growing in size and need additional facilities fast, others have aged infrastructure and facilities and no way of funding replacements. How can one size possibly fit all? Surely many variations will be sought and justified.

This has proven to be the case in the decades old NSW rate pegging system, where individual councils are forced to spend tens of thousands to justify alternate rate rise requests, only to have over 90% of requests routinely approved. What is the point of this? Other than employing more

public servants to prepare submissions and others to assess them, costing local and state taxpayers more, exactly contrary to the initial intent.

Nationally, our colleagues in Qld and WA are concerned that if a third state succumbs, it will be seen as the trend to follow and soon Local Governments everywhere will simply be outposts of the State.

Local government means local decision making. If locals want more then let them elect people who will do more. If they want less, let them elect people who will do less. Localism is the cornerstone of a healthy community, and a healthy democracy.

This is not just my opinion. According to their official website, the SA Liberal Party believe:

“In the separation and distribution of powers as the best protection for the democratic process. In a federal system of government and the decentralisation of power, with local decisions being made at the local level.”

Rate capping will add red tape, employ more public servants, centralise power, and undermine local decision making. Members of ESCOSA will be appointed by the State. They will not be elected by locals, nor will they be accountable to local communities.

Which would explain why this centralist and undemocratic policy was not supported by many in the Liberal party room, where it apparently only got up by one vote.

Even the SA Property Council told me they don't support rate capping. Nor do any of the other political parties. I can't help but wonder why the Government remains so focussed on pursuing us over this proposal when, working together, we could achieve so much more.

What we all really need is more jobs. Jobs for young and old, and especially our kids. We need to be globally engaged and locally innovative. We need all levels of business, community and government working together, firmly focused on creating a positive future.

This means maximum cooperation, coordination, leadership and inspiration. It needs open and creative minds and flexible thinking - at all levels.

It been one of our key strategies at City of Prospect, and it is yielding real dividends, investments, and accolades from locals who still can't believe how vibrant and prosperous our city has become. I fear our economic development thrust would never have been funded if rate capping had been in place and none of this would have been possible.

I'm going to vote this proposal down so we can resume getting on with what South Australians really want, more jobs, great communities, and local councils who listen locally and deliver locally. I'm going to stand up for local decision making, stand up for local democracy, and keep local taxes a decision for local people.

Please accept my apologies for sharing my views with you. My passion for local government and grass roots action sometimes runneth over!

David O'Loughlin

Mayor, City of Prospect

President, Australian Local Government Association

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Wednesday 1 August 2018
AGENDA BUSINESS ITEM**

Item: 7.1

Originating Officer: Andrew Gehling – Sport & Recreation Planning – Project Manager

Responsible Director: Peter Bice – Director Infrastructure & Operations

Subject: Stonehenge Reserve – Masterplan Update

For: Decision

1. Stonehenge Reserve Masterplan Update – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Infrastructure & Operations, Peter Bice
- Director Development & Regulatory Services, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community Capacity, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Manager Property Services, Natalie Westover
- Sport & Recreation Planner, Renee O'Connor
- Sport & Recreation Planning – Project Officer, Andrew Gehling
- Minute Secretary, Steven Watson

be excluded from attendance at the meeting for Agenda Item 7.1: (Stonehenge Reserve Masterplan Update) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3) (b) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct business, or to prejudice the commercial position of the council and would, on balance, be contrary to the public interest.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

3. Stonehenge Reserve Masterplan Update – Period of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 7.1 in confidence under sections 90(2) and 90(3)(b) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the consultation has concluded.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Wednesday 1 August 2018
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 7.2

Originating Officer: Natalie Westover, Manager Property Services

Responsible Director: Terry Crackett, Director Corporate Services

Subject: Retirement Village Review

For: Decision

1. Retirement Village Review – Exclusion of the Public

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director infrastructure & Operations, Peter Bice
- Director Development & Regulatory Services, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community Capacity, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Manager Property Services, Natalie Westover
- Consultant, Justin Hazell, Colliers International
- Governance & Risk Coordinator, Steven Watson

be excluded from attendance at the meeting for Agenda Item 7.2: (Retirement Village Review) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff and contractors in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3) (b) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council and would, on balance, be contrary to the public interest.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

3. Retirement Village Review – Period of Confidentiality

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 7.2 in confidence under sections 90(2) and 90(3)(b) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until settlement with the exception of Appendix 2 which shall be retained in confidence until 31 July 2023.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.