

TRANSCRIPT

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

Inquiry into Local Government Funding and Services

Melbourne – Tuesday 8 October 2024

MEMBERS

Georgie Purcell – Chair

David Davis – Deputy Chair

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Bev McArthur

Tom McIntosh

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Sonja Terpstra

PARTICIPATING MEMBERS

Gaelle Broad

Georgie Crozier

David Ettershank

Michael Galea

Renee Heath

Sarah Mansfield

Rachel Payne

Richard Welch

WITNESSES

Gerard Brody, Commissioner and Chairperson, and

Marcus Crudden, Executive Director, Price, Monitoring and Regulation, Essential Services Commission.

The CHAIR: I declare open the Legislative Council Economy and Infrastructure Committee's public hearing for the Inquiry into Local Government Funding and Services. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the land we are gathered on today and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings. I also welcome any other members of the public watching via the live broadcast.

To kick off, we will get committee members to introduce themselves to you, starting with Mrs Broad.

Gaëlle BROAD: Hi. I am Gaëlle Broad, Member for Northern Victoria Region.

Bev McARTHUR: Bev McArthur, Western Victoria Region.

The CHAIR: Georgie Purcell, Northern Victoria Region.

Michael GALEA: Michael Galea, South-Eastern Metropolitan Region.

The CHAIR: Thanks very much for appearing before us today. All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded, and you will be provided with a proof version of the transcript following this hearing. Transcripts will ultimately be made public and posted on the committee's website. For the Hansard record, can you both please state your full names and the organisation you are appearing on behalf of.

Gerard BRODY: My name is Gerard Brody. I am the Chairperson of the Essential Services Commission.

Marcus CRUDDEN: I am Marcus Crudden. I am the Executive Director of Price Monitoring and Regulation at the Essential Services Commission.

The CHAIR: Wonderful. Thank you. We now welcome your opening comments but ask they are kept to around 10 to 15 minutes to ensure plenty of time for discussion and questions.

Gerard BRODY: Thank you. And thank you for the invitation today. I would also like to begin by acknowledging the traditional custodians of the land and pay our respects to elders past and present and extend that respect to any Aboriginal or Torres Strait Islander people here today.

Thank you very much for the opportunity to present to the committee today. We would like to give an overview of the role that the Essential Services Commission has in relation to local government, and following this we would be happy to take your questions.

The commission's roles in relation to local government, in summary, are: advising the Minister for Local Government for setting the average rate cap and maximum interest that councils may charge for unpaid rates and charges, assessing applications from individual councils who wish to be subject to higher caps than those set by the minister, monitoring and reporting annually on council's compliance with the rate caps and identifying trends and reporting every two years on outcomes in the sector under the Fair Go Rates system. Our next outcomes report will be out next year. In support of these functions we also provide guidance to the sector and undertake research as required. More recently we have been given responsibility to provide advice to the

minister in the development of hardship guidelines. We provided the Minister for Local Government with advice on a guideline for ratepayers experiencing difficulties in paying their rates in 2023. We drew on our experience in the water and energy sectors to recommend how a more modern approach could be adopted by councils. We also provided the minister with advice on an appropriate interest rate for councils to charge for unpaid rates and charges in April 2024 – that is this year. The minister is yet to make any change to the maximum interest rate.

Just a bit more detail on the rate-cap process, the rate cap limits how much councils can increase their average general rates and municipal charges each year. It is not a cap on individual rates or on the total amount of revenue a council can collect. Councils are able to collect and keep any additional revenue that comes from changes in property numbers. The importance of general rate revenue varies across councils, ranging from around 60 per cent in the metropolitan group to 43 per cent in the small-shire group. This is because councils have other sources of revenue, including grants, contributions from developers and user fees and charges. These sources of revenue also vary in importance across councils. The increase for individual ratepayers will depend on changes in property values and classifications and also the differential rates applied by councils depending upon geographical area. On average, since rate capping began, around 40 per cent of ratepayers have experienced a decrease in their rates, 16 per cent have seen increases below or equal to the cap and 44 per cent have seen increases above the cap.

Other service rates and charges, such as waste, are not capped and have increased by more than the rate cap in recent years. For example, in 2023–24 councils budgeted to increase their waste rates and charges per property by an average of 16.5 per cent compared to the rate cap of 3.5 per cent. The cost to council to deliver waste services has increased due to a range of factors including the number of service providers, which has reduced in recent years; the introduction of new services, such as food and garden organics; and increases in the waste levy. All councils now have some form of waste rate or charge to partially or fully recover the costs of delivering these waste services. The nature of services also varies, with each council offering some combination of general waste, general recycling, food organic and garden organic collection, glass recycling and hard rubbish collections.

Under section 185D of the *Local Government Act* the Minister for Local Government is required to request our advice for the following year's rate cap. This typically occurs in October. The average rate cap is the forecast Melbourne CPI as published in the budget update issued by the Department of Treasury and Finance in December each year, plus or minus any adjustments. The minister seeks our advice on what those adjustments should be. Our consideration of necessary adjustments includes considering RBA inflation forecasts, wage cost index forecasts, council-specific cost indexes and factors affecting costs. We provide advice before the end of November, and the minister typically announces the rate cap by 31 December each year. The minister has set a rate cap for all councils equal to the forecast CPI without adjustment in each of the nine years of rate capping since it began, with the exception of 2023–24. In that year the rate cap was set at 0.5 per cent lower than the DTF forecasts and at our recommended level.

I will just move on to applying for higher rate caps. If the average rate cap appears insufficient for the needs of any council, the council can apply to the commission for a higher rate cap, and it could be up to four years. In making an application the council needs to explain the reasons for the higher rate cap and why they think it is necessary. We ask councils to provide relevant documents that support their application, including annual reports, budgets, council plans, long-term financial plans, asset management plans and engagement strategies. Following the 2020 amendments to the *Local Government Act*, councils are required to have a range of these plans, policies and strategies in place. If successful, councils can increase their average rates by the approved higher cap. However, we have not received any applications for a higher rate cap in the past five years, and there have been no approved higher caps in place since the 2020–21 rating year. Over the nine years of rate capping we have assessed 17 applications, approving 10 of these in full and a further three in part. Additional revenue has typically been sought to address long-term financial sustainability or asset renewal needs or to maintain service delivery. In our experience the higher rate cap application process provides sufficient flexibility in the rate-capping system to deal with councils' unique circumstances. The process allows for the vastly different circumstances of individual councils and their communities to be considered and provides councils with the opportunity to demonstrate to their communities and the commission that a higher rate increase is justified.

Just a few comments on compliance with the rate cap. Each year we assess council compliance with the average rate cap or any approved higher rate caps. Councils provide us with information about their rate revenue and property numbers so we can determine whether they are compliant. All councils were compliant in the 2023–24 year, and we will be releasing the 2024–25 compliance report in November. Every two years we prepare an outcomes report, and we will be releasing our fourth report in May next year. There are two components to these outcomes reports: firstly, a report on the sector as a whole, including some comparisons between the five different council groups – that is, metropolitan, interface councils, regional cities, large shires and smaller shires – and then also interacting dashboards on our website, broken down by region for individual councils and council groups, which are also available as accessible fact sheets. The key finding in our last report, published in May 2023, which covered a four-year period from 2018–19 to 2021–22, included that rate capping has kept rate increases below historical levels. For the sector as a whole, revenue per person has increased, driven by contributions and grants, despite a sharp drop in user fees and fines. Other than in 2020–21, overall capital works expenditure continued to grow, with increased investment in asset renewal and new infrastructure. The sector as a whole has a positive operating position and the ability to meet both short-term and long-term liabilities.

We also found that, on average, all council groups except the smaller shires had enough revenue to fund activities. Twenty-seven out of the 79 councils had a negative average adjusted underlying result as a four-year average. This compared to 18 councils over the four years covered by our previous report. In 2021–22, for the first time in six years of rate capping, two councils reported a working capital ratio below 100 per cent. In each of the six years of rate capping the sector as a whole reported an indebtedness ratio of 20 per cent or lower. On average over this period seven councils reported an average indebtedness ratio of above 40 per cent.

While our biennial outcomes reports show the financial position of some councils has deteriorated since rate capping was introduced, this is not necessarily due to rate capping. Council revenue and expenditure has been impacted by the COVID pandemic and associated lockdowns, and many councils have felt the impacts of natural disasters. We have seen many councils increase their rates by less than the annual rate caps because they have considered cost-of-living pressures and their communities' ability to pay. A key part of the rate capping framework and also the legislative changes that were made in 2020 is for councils to engage with their communities and work out their willingness to pay and service preferences. I will leave it there. That is a lot of information, but we are very happy to take your questions.

The CHAIR: Wonderful. Thank you very much. We will start with Mrs McArthur.

Bev McARTHUR: Thank you, gentlemen. Thank you for your time today. Now, the most recent ministerial statement of expectations for the Essential Services Commission is from June 2022. Do you know why Assistant Treasurer Danny Pearson has not provided a new statement of expectations over two years?

Gerard BRODY: I do not know why.

Bev McARTHUR: Have you reached out about the issue to the minister?

Gerard BRODY: Mrs McArthur, I have just been appointed to this role, only last month, so I am very new in the role. I have only had a few opportunities to meet with the minister at this stage but will engage on these and other issues as I settle into the role.

Bev McARTHUR: Not having the latest expectations, is that hindering your role in the Essential Services Commission?

Gerard BRODY: No, I do not think so. Our role is clearly set out through the legislative frameworks that we abide by, and we also publish regularly our priorities each year, as any regulator would expect. It is those priorities, our discussions with government and our legislative responsibilities that set out our role.

Bev McARTHUR: So you do not need any expectation statement then?

Gerard BRODY: No, I am not saying that. We would welcome and expect –

Bev McARTHUR: An updated one?

Gerard BRODY: We would welcome a statement of expectations when that is ready.

Bev McARTHUR: I will have ask the minister what he is doing. You set the rate cap, as you have told us. Has a minister ever not accepted your recommendation?

Gerard BRODY: I do not think so. I will just get Marcus to confirm that. I think that is right.

Marcus CRUDDEN: I guess the year when they adopted the rate cap half a per cent lower than the rate we recommended, so that was not. I think in the first couple of years of the rate capping we used more a council specific that gave some extra allowance for labour costs and government defaulted back to the Treasury forecast. I should say we give advice; we do not set it. It is the minister that sets it, not us.

Bev McARTHUR: Yes, but you give advice.

Marcus CRUDDEN: Yes.

Bev McARTHUR: Do you think a rate cap as a sort of one-size-fits-all approach is relevant to 79 municipalities across this state?

Gerard BRODY: Well, the rate capping scheme does set that initial rate cap, but then councils do have the opportunity to seek variations depending on individual circumstances –

Bev McARTHUR: Yes, but you have just told us they do not.

Gerard BRODY: Actually we have had, I think, since the rate capping has been established –

Bev McARTHUR: Eighteen or something, wasn't it?

Gerard BRODY: Seventeen applications, that is right.

Bev McARTHUR: Seventeen. So one size fits all is okay, you think?

Gerard BRODY: It is really up to councils to make that application.

Bev McARTHUR: You are the advisers here. You are the Essential Services Commission providing this essential service. What is your view: one size fits all or not?

Marcus CRUDDEN: I think as an initial starting point, noting this is what everybody gets, I guess, no questions asked, there is a process by which councils can come forward and ask for a higher cap. As noted, 17 councils have come, and 13 of those 17 have been successful. I think as a starting point it is adequate and appropriate, but I would agree it is slightly crude. But a lot of the cost pressures are pretty consistent across councils. The biggest individual cost tends to be labour.

Bev McARTHUR: No wonder they want to outsource it.

Marcus CRUDDEN: Possibly.

Bev McARTHUR: Commissioner Brody, can you please confirm that the new code of practice for gas distributors that came into force on 1 October 2024 requires that Victorians 'pay up-front installation costs for new gas connections'?

Gerard BRODY: I will have to take that one on notice.

Bev McARTHUR: Okay. That would be very good if you would come back to us on that. I do not know how much more time we have got.

The CHAIR: We have got a couple more minutes.

Bev McARTHUR: Oh, a couple more minutes. What we have heard also is this problem of councils being able to service their ongoing infrastructure that is often actually owned by the state government, ironically, which ratepayers are having to foot the bill for. Do you have any view on how this could be better managed?

Gerard BRODY: Well, as we explained in our statement, there are a range of funding sources for local councils, and rates is one. They also have opportunities to use other funding sources, whether that is their own cash reserves or they can enter into borrowing arrangements. There are a range of ways in which councils can manage their finances.

Bev McARTHUR: So just looking at rates, which are, as we just heard from the union previously, a wealth tax very crudely applied across Victoria because it varies depending on the geography. The smaller councils will be charging a much higher rate in the dollar in their rates than they would in Stonnington, say, where the amount of money that they get from fines or pet registrations is probably the budget for a small rural council like Buloke of, say, \$25 million. Is the current system of a wealth tax the best way to fund local government, do you think?

Gerard BRODY: I am not sure I can have a view on that, Mrs McArthur, but I can tell you that, for example, the average revenue per property by different council groups is not that dissimilar. So for the small shires the average revenue per property is \$1740 up to –

Bev McARTHUR: No, but averages do not count, do they, really, because we have had evidence that farmers, particularly in rural shires, have had escalating rate increases of extraordinary amounts. Averaged out, yes, they have come within the rate cap – the total amount of money that the council can cream off ratepayers is X. But the actual rates that people are paying are very discriminatory. It is arbitrary, and it is absolutely not fair. As an organisation providing essential services, is this the best way to fund this sector of government?

Gerard BRODY: What I can say is that you are right that when it comes to individual ratepayers, the impact of the rate cap will be different.

Bev McARTHUR: It is not the rate cap.

Gerard BRODY: Yes, that is right. Changes in property valuations can influence the impact on individuals and also changes in differential rates, which are the different rates applied by some councils.

Bev McARTHUR: That is a very political decision, isn't it?

Gerard BRODY: It is up to councils to decide what the proportion of rate revenue they collect from different classifications of property is, whether it is residential or commercial or rural and so on. That is really a decision for councils.

Bev McARTHUR: Yes, but if we are funding this sector, what is the best way to fund it?

Gerard BRODY: I do not know. I do not think I can answer that question.

The CHAIR: We will leave it there, Mrs McArthur. I might pick up on that one. You have spoken a lot about rates. We have heard a lot throughout this inquiry about grants as well as a source of revenue and the financial instability that comes with the grants system, given that grant funding can expire. It is often funding a community service that members of the community love and appreciate, but then the funding stops and councils have to make a decision to find the money themselves or to end the service. Do you have a view on the grants structure in Victoria and if there is anything the state government could do to improve it as a source of revenue?

Gerard BRODY: It is not really our responsibility to oversee the grants system.

The CHAIR: I note that, but it obviously ties in with the revenue from rates and how services are funded. I understand it is not your speciality area, but do you have a view on the stability of it?

Gerard BRODY: I can see that it is going to require consideration by council, if grants are stopped, of what that means for their community. Under the system that we administer, if they want to seek a higher rate variation to perhaps continue that service, they are able to do that. Part of that is to demonstrate that they have engaged with their community around that, and they can then go ahead and seek that rate cap variation.

The CHAIR: Does that happen often?

Gerard BRODY: Well, as we said, it has not happened often in recent times, but it has happened over the period of rate capping.

The CHAIR: Yes, and what sorts of services would councils do that in relation to, or is it varied?

Marcus CRUDDEN: I think the applications, by and large, that come to us are around long-term assets and sustainability – saying they have an infrastructure gap in terms of renewing roads. Replacing bridges is a really big one in regional and rural Victoria. It is really where they are seeing an emerging gap between the level of rates they have and the future commitments coming. When those gaps were large or increasing, that was usually where councils came and where they were quite successful. These were, I guess, long-term type issues rather than small or one-off type issues.

The CHAIR: I am not sure if this is a question you will be able to answer, but how is that normally received by the community when that decision is made?

Marcus CRUDDEN: I think what the framework requires is engagement with the community. It is not a popular show of support but actually going out to the community. I think generally there has been, on the applications that came to us, a reasonable level of community support, particularly when it is for those long-term infrastructure needs, because of course if you are a community and you are worried about the quality of roads in your area, then council investing in that is probably seen as a good thing. I think there is generally support, but of course you are not going to get universal support. We are not saying this is a popularity contest. Indeed sometimes what we hear is the challenge, and that is another reason perhaps why councils do not come for applications. Council staff may be keener for applications for variations or higher caps than what elected officials are, who may be wanting a cap on rates for the community.

The CHAIR: Okay. Thank you. Mr Galea.

Michael GALEA: Thank you, Chair. Thank you for joining us. Just to start, I note this inquiry has received a certain amount of feedback from councils advocating for a change to the CPI approach that is used to determine the yearly rate caps. Some councils have advocated for an index that is reflective of local government expenditure, including things such as construction costs, as opposed to the CPI. What is the reason that CPI is used? Are there any particular reasons why an alternative approach such as a local government expenditure index is not used?

Marcus CRUDDEN: I guess the main one is CPI and that Treasury forecast are what are represented in the legislation. That is the default. Each year when we provide advice to the minister – and in recent times we have canvassed a range of issues – we do plug the Victorian costs into those cost indexes that are used in New South Wales and South Australia and say, ‘This is what the number would be if they were supplied here.’ As I said, in the very early years the commission did have an index that included an allowance for labour costs, because that is the biggest individual cost for councils collectively. I guess we are not opposed, but we do need to be conscious of what the legislation says. The legislation defaults to that CPI forecast, so that is the starting position. But I understand why some councils say others might be better. I know MAV has done quite a bit of work on this, and FinPro as well, and they have raised their work with ours and we do meet with them in giving that advice. So we do have regard to what is coming out of those types of indexes.

Michael GALEA: Sure. Just to clarify, if I may, did you say that New South Wales and South Australia use a local government index as opposed to CPI?

Gerard BRODY: They have different frameworks, but they do have a council-specific index and we do plug the Victorian numbers into those formulas to say what would it be if we had this approach.

Marcus CRUDDEN: Just to be clear, as part of us providing advice to the minister, we look at things like those indexes to inform that advice.

Michael GALEA: Sure. Thank you. So when you do those comparisons then to compare, or to plug the Victorian inputs into that sort of model, would a local government expenditure index result in a higher rate cap amount each year and therefore a larger rate burden on ratepayers?

Marcus CRUDDEN: I think these things tend to vary in individual years. I think the other thing we find is they would generally possibly in recent times be higher than the default rate but lower than the headline CPI, which I know a lot of councils have also raised with you, saying inflation was 4 per cent and we got 3. Usually you find the gap comes somewhere between the two.

Michael GALEA: Sure, but allowing for lots of individual circumstances, it would be fair to say that in a general sense, it will be a higher rate cap and therefore more rates being charged?

Marcus CRUDDEN: Potentially.

Gerard BRODY: And some years the opposite.

Marcus CRUDDEN: In some years it could be less. Even under the CPI rate cap there were a number of years where actual inflation turned out lower than the cap. I think there was a quite good submission by Bass Coast council that showed the index versus the CPI, and I think it was up about 2 per cent different over the nine years – it is not as big a difference as some make out.

Michael GALEA: Interesting. Good to know. And in the nine years that we have had rate capping for, how do those increases compare with, say, the nine years before rate capping was implemented? And based on the evidence of councils as a percentage I would say it would be, but would it be fair to draw the conclusion that the overall rate burden is less than it otherwise would have been had the current state government not brought in rate caps?

Gerard BRODY: Yes, our last outcomes report did confirm that rate capping has kept rate increases below historical levels.

Michael GALEA: Again, it is a very hard question to ask, but is there any sense of, for an average household, whether it is statewide or within any of those five geographic groups you have described, how much of a financial difference that is to families, to the average home owner, in the average council per year?

Marcus CRUDDEN: Certainly not off the top of our head, and it is always hard to prove the counterfactual, because I think in the three or four years before rate capping was introduced an average 6 per cent nominal per annum since rate capping has averaged 2.5 per cent. I do not know if 6 per cent would have continued through, but I suspect –

Michael GALEA: Could have been lower; could have been higher, even, yes.

Marcus CRUDDEN: Yes, but I think it has constrained would be our observation, compared to when the caps were first set.

Michael GALEA: Thank you. And I do want to go on to something – if I have time, Chair?

The CHAIR: Of course, yes.

Michael GALEA: You spoke about, Commissioner, in your opening remarks, and Mrs McArthur actually touched on as well, geographic disparity, with the example of inner-city councils that have far greater powers to raise revenue through, for example, parking fees and parking fines as an advantage over outer-suburban and regional councils. Would you agree that there is a structural advantage that those councils have in their capacity to raise revenue from non-rate sources?

Gerard BRODY: It's certainly right that some councils have greater capacity to raise revenue from those sorts of sources than others.

Michael GALEA: And you did mention this briefly, but to what degree does that factor into your determinations?

Gerard BRODY: Well, it would be considered in any rate cap variation. So any council can come forward and seek a rate cap variation based on their particular circumstances.

Michael GALEA: That is considered at the variation stage?

Gerard BRODY: That is right.

Michael GALEA: Thank you.

Marcus CRUDDEN: And many of those councils that have come for variations have been in those smaller groupings, so they have been councils like Buloke, Horsham, Moorabool, Murrindindi, Pyrenees, Towong, Hindmarsh, West Wimmera – it is in a lot of those sorts of categories that probably have less options –

Michael GALEA: The small shires.

Marcus CRUDDEN: Small shires. I think that is where rate capping is more felt, but they were probably also in financial difficulty prior to rate capping as well, just because of those structural issues you have mentioned.

Michael GALEA: Thank you. You spoke about the waste management levy as well, and we know that there was an Ombudsman report and some new regulations as a result of that based on the actions of one council trying to incorporate a whole swathe of other spending into the waste levy they were charging residents. Does ESC have a regulatory function over the waste levy that councils charge? I know that you do not set it in the same way that you set rate caps, but is there any other way in which ESC monitors or oversees that?

Gerard BRODY: No, we do not specifically oversee the waste charges. I think in terms of the outcomes report, we release some information – that is correct –

Marcus CRUDDEN: Yes.

Gerard BRODY: around the waste charges, but we do not specifically oversee the waste charge.

Marcus CRUDDEN: That sits outside the cap, and because it is outside the cap, we do not have any oversight or control over that.

Michael GALEA: Sure. Thank you. In that reporting that you do, though, do you have any data that shows how much the waste charges have increased over time, and, if possible, could that be broken down by those five regions as well?

Gerard BRODY: Yes, we could probably provide some of that information on notice. As I mentioned, there has been a higher increase for waste charges compared to the rates cap. I think for 2023–24 it is budgeted at least that there will be an annual increase of 16.7 per cent per rateable property, whereas the general rates are capped at 3.5 per cent. But we can look to provide a further breakdown; we are able to do that.

Michael GALEA: That would be terrific. Thank you. Thank you, Chair.

The CHAIR: Thanks, Mr Galea. Mrs Broad.

Gaëlle BROAD: Thank you very much for appearing today. Just on the application of rates and the percentages, do you know what the highest increase has been on an individual property?

Gerard BRODY: We might have to take that one on notice as well. As I said at the outset, we have seen 40 per cent of ratepayers experience a decrease in rates, but 44 per cent have received an increase in their rates. In terms of the highest, I am not sure whether I have that information, but I can look into it.

Gaëlle BROAD: That would be very helpful, because we have heard some pretty scary figures from some rural properties and also about a difference in the rates applied by councils to renewable energy projects, for example, as opposed to rural residences. There has been some inequity there. I am just interested in your thoughts. Do you think local councils across the board in Victoria are in good financial health?

Gerard BRODY: Do you want to take that on, Marcus?

Marcus CRUDDEN: I think our overall view is probably yes when we take it sector wide, but as noted, between the various sectors, I think the majority of problems probably occur in the large and small shires. I think they probably face a range of challenges – you know, the lower population densities and even the socio-economic demographic characteristics of some of the communities they serve. Perhaps some of those councils,

if they wanted to lift rates, may face a real challenge in imposing higher rates on some of the communities out there. That is where I think most of the problems are, and I suspect the majority of councils you are hearing from in this review are probably more in those groupings. I think the larger councils and regional cities are probably in strong positions. I think the interface councils just have some challenges at times from the rate of growth, which is probably more a structural thing – they may have a very large capital spend in a short space of time. I guess, as raised earlier, there is that issue perhaps that inner-city councils and regional cities have those other revenue streams, such as parking fees and the like, that really are not open to perhaps the smallest councils.

Gaelle BROAD: If you were looking ahead then – like in five years time – what do you think the difference would be? Will councils still be in a reasonable position?

Marcus CRUDDEN: I think in the vast majority, as we noted in the opening comments, there were some deteriorations between our last reports. Our next report is next May. It will be interesting to see if there have been any changes in that. We have not got the data yet – we usually get the data in about November – so I cannot give you any insight into what is coming out of that. But there have been other challenges as well. The pandemic certainly hit some councils very hard. So there are also some other factors, not just the rate capping factor, that are impacting them. As noted, as a multisector regulator, we are going through some of the challenges around infrastructure delivery and capital costs that are being felt not just in local government but in the wider sector and the like as well.

Gaelle BROAD: Have you been monitoring this inquiry and some of the concerns raised by local councils? We have been hearing some of them talk about how within five to 10 years they are going to be in a dire situation. Have you been monitoring that feedback?

Gerard BRODY: We have heard some of that feedback, and we do engage with councils. I guess our primary engagement really is through the rate capping regime, so it is through listening to them in their deliberations around adjustments to the rate cap every year and then in the process, if there are specific councils that seek a higher cap variation. It is probably only in that process, though, where we get a deep dive into that particular council; other than that, we probably see things at a bit more of a macro level.

Gaelle BROAD: What we have heard from councils during this inquiry is that that process for applications is very onerous, which actually puts a lot of them off even applying. The other challenge is the end result is higher rates potentially for people, which they are showing, and I think your report indicates that the number of debtors is increasing, that people owe rates and that councils have got challenges with trying to retrieve those as well. That may not be a good measure. In the work you are doing it does appear that you are monitoring the financial performance of local councils. Do you see it as your responsibility to be monitoring their performance or do you think that should be Local Government Victoria?

Marcus CRUDDEN: I think under the framework as it is now it is more Local Government Victoria. Our role is fairly confined by exception, so it differs a bit from, say, our role in the water sector, where all water businesses come to us every five years with a pricing proposal and we have a facilitative objective of financial viability of the industry, so we look every five years. ESCOSA, the economic regulator in South Australia, have a role where every council every four years puts its budgets and its plans in and as a regulator they look at the financial sustainability. That is not a task we have here.

Just to comment on the indebtedness and councils, I think that is one thing: we think councils probably could take more modern, more proactive approaches to debt and outstanding payments, as we see in some of the others sectors we regulate. It would probably be beneficial for both ratepayers and councils in terms of earlier, more proactive engagement with those that are not paying by establishing things like payment plans, making sure people are claiming things like concessions if they are eligible or even putting them into broader government programs if they have been affected by things like drought or pandemic. That is an area we think councils could probably improve in.

Gerard BRODY: Can I just add as well, Mrs Broad. You mentioned that there might be a perception that seeking a higher rate variation is burdensome. We do not think it should be that burdensome for councils. There is a process – we do not deny that – but many of the things that we ask them to include in their applications are things councils should be doing anyway, including their budgeting, their financial planning, their asset

management plans and their engagement strategies. In fact some of those they are required to do already under local government legislation. So the additional work should not be that burdensome for them. We try and make that point with our engagement to councils as well.

Gaëlle BROAD: Just in relation to the timing of the advice that you give the minister, we have heard from councils that they are flying blind while they are planning their budget processes because of the timing of the advice that they receive about the rate cap and also the information they receive about the federal assistance grants. Can there be any amendment to that timeframe to give them greater certainty?

Gerard BRODY: At the moment it is the legislated process for when that timing should be provided. I think that we would be happy to provide information as early as possible to facilitate information being given to councils in a way that is useful for them.

Marcus CRUDDEN: It is normally requested from us in October, and we provide advice usually by the end of November that is released in mid to late December. Other than that default to the Treasury thing, we would be comfortable with earlier advice if that was requested of us or if the processes were changed to give earlier advice. If that assisted councils, it would probably be a good thing.

Gaëlle BROAD: I am just interested in your thoughts. We know from rural councils they do sort of capture a whole lot of needs. For example, for a new housing estate it is hard to get developers there because the cost of getting the sewerage or getting the water connected or getting concrete delivered is so much higher than for metropolitan Melbourne. They have talked about the needs in that regard, but also we have heard local councils talk about significant population growth. Yesterday we were in Melton, and we were hearing about the decline in funding by the state government for the Growing Suburbs Fund. What they are receiving now is almost non-existent. How do you think those challenges that rural councils face and also the growth that councils face – and you have quite a limited remit, I guess – could be better addressed?

Gerard BRODY: Under the regime that we administer there is the option of seeking a higher cap variation. That is the flexibility that is in the system at the moment that councils can take advantage of.

Gaëlle BROAD: That is fine. That is all good. Thank you.

The CHAIR: Thanks, Ms Broad. We have time for one more question off Mrs McArthur, and then we will have Mr Galea.

Bev McARTHUR: One of the issues, I think, is the fact that the valuer-general sitting with a computer in Fitzroy or wherever he operates from sets the valuations, whereas previously we had valuers that actually did on-the-ground valuations. Would you consider that problematic, especially when the productivity of that rateable property is not taken into account? I am particularly concerned about rural farming properties where a subdivision next door to a farm increases the value of that property, and the spreadsheet man down in Fitzroy will just see an increase in the valuation there and ramp up the valuation of that neighbouring property, which has no capacity whatsoever to deliver a productive outcome that would represent that increase. Do you see that as an issue?

Marcus CRUDDEN: I think it is an issue that probably falls outside our role, but one thing that possibly could assist in some of that concern about rural properties is that in this advice the cap is based on an average and simply the average is 2½ or whatever. In some of the other sectors we regulate there may be a regulation on average, but there is a side constraint, so if it is 2½, nothing can go up more than 5 per cent or 10 – that could be a consideration. I think there was something when rate capping was first put out so that in any individual class there are not multiples of the collective. Now, individual properties I think are a bit challenging because there can be rezoning and all those things. But probably the thing that comes up most frequently with us is that impact perhaps on those rural properties where there may be within some councils really quite different outcomes, as you are suggesting, and I think that is perhaps a general concern. That is where perhaps a process like this based on an average can all be a bit crude, and individuals may be disadvantaged by that. There are also processes to challenge those valuations as well in the Act, and I know that we sometimes encourage people who to write to us and say, ‘Well, perhaps you should go down that path.’

Bev McARTHUR: And just one more thing –

The CHAIR: One more, Mrs McArthur.

Bev McARTHUR: The problem councils have identified is they set their budgets, but then something else will be imposed on them, some policy decision by state government. For instance, we have got the job tax that came out way after the budgets were set and with just a few days to comply, with an extra administration fee which they have never paid before and a fee per job. Is that good governance? Is that the way we should approach local government budgeting?

Gerard BRODY: I am not sure that we can add much to that other than to say that –

Marcus CRUDDEN: We would probably raise the point from the earlier question: the more transparent, the more timeframe people have to do their budgets and the more robust the budgets are, probably the better it is for both councils and ratepayers.

Bev McARTHUR: And should they have an outcomes column in their spreadsheets, as to the services they are providing and if they deliver the outcome? Are you interested in looking at how they spend their money and whether it generates an outcome?

Marcus CRUDDEN: That is certainly the way we have gone in things like the water sector so that they give us the outcomes they are going to deliver. I guess that would be a question for Local Government Victoria – what they require in things like councils' annual reports. But I would generally say that is the way. I think we are even heading that way ourselves with our own reports.

Bev McARTHUR: Anyway, you are endorsing it. Excellent.

The CHAIR: Thanks, Mrs McArthur.

Bev McARTHUR: Local Government Victoria seemed to have nothing within their purview. It was somebody else's responsibility.

The CHAIR: Thank you, Mrs McArthur. We will take another question off Mr Galea.

Michael GALEA: Thank you, Chair. Just going back to what we were talking about with what we would call the structural advantage that inner-city councils have when it comes to revenue from parking et cetera and thinking about the way in which, for example, the Commonwealth applies GST revenue, we have horizontal fiscal equalisation where richer states such as Victoria effectively cross-subsidise less well-off states in the Commonwealth. Do you think a model similar to that should be applied whereby the advantages that these inner-city councils get, such as the parking revenue, are actually distributed across all councils fairly?

Gerard BRODY: I am not sure I have a particular view on that, Mr Galea. Do you?

Marcus CRUDDEN: No. It is not a proposition I have heard before, so I have not given any thought to it. It is an interesting one.

Michael GALEA: Yes. It just came to mind because I think as a Commonwealth we do that and effectively rich and well-off states like Victoria are deprived of income. Perhaps there is something to be looked at there.

Gerard BRODY: Yes, I understand your point.

Bev McARTHUR: Because they do pay a much lower differential rate on average to smaller rural shires. Well done, Mr Galea.

Michael GALEA: There you go. Anyway, it was just a thought, so I thought I would ask if you had come across it before. I appreciate your time today. Thank you.

The CHAIR: Thanks, Mr Galea. Mrs Broad, do you have one final question?

Gaëlle BROAD: I do, and it kind of relates back to the topic we were talking about earlier and the debts to be recovered for outstanding rates. My understanding is that in June 2022 a ministerial statement of expectations outlined that the ESC was to work with the Minister for Local Government on setting:

... a maximum interest rate that may be levied on unpaid rates and charges, and issue Ministerial Guidelines to inform how councils deal with ratepayers experiencing financial hardship.

I guess you have talked to that briefly, but is that work complete?

Gerard BRODY: We have provided the Minister for Local Government with advice on a guideline for ratepayers experiencing difficulties in paying in 2023, and we have also provided the minister with advice on an appropriate interest rate for councils to charge for unpaid rates and charges in April this year.

Gaëlle BROAD: Okay. Are you able to share that advice?

Gerard BRODY: I think the advice has been provided to the minister.

Marcus CRUDDEN: The advice on hardship is public – it is available on our website – and the advice on a maximum interest rate has been provided to the minister but has not been acted on. Our advice is only released when the minister makes a final decision on that advice.

Gaëlle BROAD: Okay. So that is yet to be made?

Gerard BRODY: That is right; it is yet to be made.

Gaëlle BROAD: Okay. Thank you.

The CHAIR: Thanks, Mrs Broad. That is all we have time for today. Thanks very much for making the time to appear and answer our questions. It is very much appreciated by members of the committee. That concludes the public hearing.

Witnesses withdrew.