LG Equip Zoom Update – 21 April 2022

ESCOSA Strategic Management Plan (SMP) Advice

This document provides a summary of conversations from the LG Equip Zoom Update session on 21 April 2022 in relation to the Essential Services Commission of SA (ESCOSA) proposed draft Framework and Approach (strategic management plans (SMP) advice). It is provided to assist Councils with making a submission to ESCOSA on the Draft Framework and Approach. Similar questions and comments that arose throughout the session have been grouped together in boxes, with the LGA offering commentary immediately below.

Double Handling

- *Can this historical information be sourced from the Grants Commission?*
- *How far back does the Grants Commission keep data?*
- *The Councils in Focus website already contains a lot of information on Council's income, expenditure, and performance - isn't what ESCOSA doing a double up of this?*
- *The Productivity Commission already did a similar analysis of historical trends.*

Concerns were raised that other entities have already:

a) collated the information ESCOSA is proposing to request through its reviews; and
b) analysed similar trends of the same data.

Adam Wilson, CEO of ESCOSA, mentioned that enquiries to the Grants Commission indicated data is available from 2014, despite councils having provided data for a longer period of time. The LGA has sought confirmation of this from the Grants Commission.

The Grants Commission provides copies of database reports on their website back to 1995-96, however it is noted that the Commission may have disposed of the original Supplementary Returns that feed into the database reports (in accordance with their own record keeping policies). In addition, while the Grants Commission may have historical data, this data may not align with audited financial statements (i.e. the database reports include a note that '*There may be differences from Council Financial Statements and amounts shown in Supplementary Returns so as to enhance data consistency and comparability*').

In addition to Grants Commission data, council information is collected and analysed through the 'Councils in Focus' website and in the recent SA Productivity Commission report into local government efficiency. The LGA put the argument that the ESCOSA review should not require councils to provide information already made available to State government entities nor replicate existing regulatory or oversight arrangements.

ESCOSA as Regulator vs. Advisor

- *Local Government are subject to quite strict transparency and disclosure requirements which may not necessarily apply to ESCOSA. Will ESCOSA deliberations and Board meeting papers about the Council reviews will be made public?*
- *Not sure of the language of ESCOSA being a partner. I am not convinced that Local Government want or need the Scheme - but rather this is being forced upon us by legislation. A partner is one of our choosing and with an agreed approach. Neither appear to be the case with the Scheme.*
- *Our experience with ESCOSA and CWMS licensing/audits/etc show that it is very challenging to work cooperatively with ESCOSA.*
- *Presentation sounded like "friendly advice" from ESCOSA to councils yet has S122 legislative backing. The relationship can quickly break down to one of enforcement rather than friendly advice.*

ESCOSA have been nominated as the designated authority to undertake the tasks set out under s122 of the *Local Government Act 1999* (Local Government Act). Councils' historical interactions with ESCOSA in their regulatory capacity suggest the need for further clarity of the exercisable powers they possess in undertaking these tasks. The scope of ESCOSA's review needs to be precisely understood and documented.

ESCOSA's advisory role for the task under s122 differs to their economic regulatory function established under the *Essential Services Commission Act 2002*. The implications of this legislative difference suggest that ESCOSA will not have access to their usual powers of investigation. Rather ESCOSA must conduct a review confined to the scope set out in section 122 of the Local Government Act, using only those investigative powers bestowed by section 122. The Local Government Act does not contain any penalties for non-compliance (eg. if a council does not provide the information requested by ESCOSA).

Methodology – CPI

- *Is it possible that ESCOSA advice will criticise a financially sustainable council for increasing rates above CPI?*
- *I don't agree with the proposal to use Australian CPI. Why not use Adelaide CPI? Why does ESCOSA acknowledge LGPI as a robust tool for Local Government but not use it in this exercise?*
- *Focusing on keeping rates in line with CPI is not helpful for growing councils. It assumes that your council is static and that you are not going to add any new services or infrastructure. I think it would be more helpful for them to include the additional consideration of new services/infrastructure included in the plans.*
- *If your costs are rising greater than CPI, they may just state that the Council is inefficient.*
- *CPI (and which CPI, December CPI it seems they will use) is only relevant as to a ratepayer's expectation of what their overall average rates should be - not what costs are increased by. Waste levy for example has gone up by 500% over the period they are looking at. Wages growth is based on EBs often locked in for number of years - so lead/lag on CPI. We need to be sustainable and often because costs increase > CPI, rates increases are often greater than CPI.*

- *Levels of rating/rate revenue vary significantly between Councils, probably mainly due to historical reasons. Revenue increases to achieve sustainability and fund AMPs are constrained by a community/elected member focus on CPI-type limits. Understanding the relative levels of rate revenue needs to be understood yet ESCOSA isn't going to do inter-Council comparisons… they say.*
- *ESCOSA argues that they will review the 'soundness' of the LTFP. The assumptions form a key part of that, yet ESCOSA blithely disregards a sound, long established indicator of future cost increases in favour of saying "CPI sounds great". If we were a fruit and veg store, ESCOSA proposes to use the cost of potatoes to determine the price of oranges. That appears a pretty unsound business model and not the sort of professional advice I would be prepared to pay $52,000 for.*

The LGA strongly objects to the use of the term 'CPI Constrained' in any advice or public information to be provided by ESCOSA. The LGA rejects the notion that council revenue and expenses should be 'constrained' by CPI.

Previous versions of proposed reforms to the Local Government Act which included either:

- 'rate capping' as exists in other jurisdictions where a designated authority determines an appropriate 'rate cap'; or
- a 'Rates Oversight' scheme whereby councils would submit information specifically on their proposed rates increases to a delegated authority who *would provide advice to the council on the appropriateness of the proposed change in total revenue from general rates;*

were defeated in Parliament.

The Local Government Act provides discretion for councils to determine the reasonable assumptions to be used in the development of their LTFP.

These issues were comprehensively reviewed as part of the passage of the *Statutes Amendment (Local Government Review) Act 2021* and ultimately councils were not required to use specific indices. Rather, councils now have an obligation to include the assumptions used in the development of their LTFP.

In attempting to only give weight to one inflation index and discounting another, ESCOSA inappropriately limit the discretion bestowed upon councils under the Local Government Act.

ESCOSA's role was clearly articulated as a review of a council's LTFP and IAMP (in particular, any changes to these documents) and on the revenue decisions that they make within the context of the council's 10-year financial plan.

ESCOSA should have regard to whether the assumptions used by a council in the development of their LTFP are appropriate, it is not their role to determine the appropriate indices to be used.

Methodology - Other

- *On page 6 of the Discussion Paper, in reference to Principle 2, ESCOSA say, long-term plans would not be expected to materially vary due to political cycles. Are ESCOSA saying that if communities vote for a change in representatives, the newly elected council should be constrained from implementing their agenda for change?*
- *What if the ESCOSA review concludes that a Council is inefficient and unsustainable because of its size and could significantly improve its cost efficiency and sustainability via amalgamation? Will it provide such advice to the Council?*
- *How will ESCOSA understand the historical analysis on actuals without the context of also having data on one off impacts in any particular year ie timing of grant recognition, changes in legislation impacts ie housing associations. In our LTFP we look at what we expect our cost/income to be going forward on best available information. Then actuals and trends are helpful but in some instances the past is not a helpful indicator - fuel price increases for example*
- *Have ESCOSA had any discussion with sector finance managers as to the finance resources available in the period from now until 30 September for small to medium size councils selected?*
- *ESCOSA focus should be on LTFP and assumptions that inform that plan and how assumptions are derived and whether reasonable - ie link to endorsed AMP etc. Historical analysis might inform what adjustments to base budget should be in LTFP but other than that not sure what value it's providing to them*
- *It would be more helpful if ESCOSA focus on delivery to strategic management plans rather than on just the numbers. The numbers do not always explain if a council has delivered on what they said they were going to do (due to grant funding etc.) I also think that focusing on the assumptions and delivery is more important.*
- *There has been a lot of maturity in the sector and LTFP and AMP's, it's important this is taken into consideration when looking at historical data.*
- *Advice from ESCOSA would only be useful if it takes into account holistically, asset condition, service levels, community expectations, historical renewal expenditure, relative rate levels, borrowings, etc.*
- *I think the timing across the key period of completing the financial statements is also key.*
- *Section 122 requires ESCOSA to review Long-term Financial Plans and the Infrastructure and Asset Management Plan. Why do you need councils to provide all the information contained in Appendix 2 -such as costs of contracts, level of inventories, employee costs, sales of real estate developments, repayment of loans by community groups? Isn't this supposed to be a high-level review?*
- *Also concerned with the period of historical financial information since 2007-08 (14 years history)?*
- *2014 to now should be enough to get understanding and reduce workload for councils.*
- *Where do Strategic Plans/Community Plans fit into this? I know it's predominantly about financial sustainability but aren't community/SPs relevant to that (since they guide future ambitions)?*
- *Seems like too much focus on historical information - going too far back to provide useful context.*
- *Past performance is not always an indicator of future performance so if this is about future sustainability...?*
- *The long-term 'context' ESCOSA is seeking cannot be made without understanding the political background and councillor priorities at the time. The historical dollars are not telling the whole story and so there is very little value going back 14 years.*

Section 122 focusses ESCOSA on the:

- Long-term Financial Plan (LTFP) - which by regulation must contain specific information from the Model Financial Statements (ie. Note 15 – Financial Indicator and Note 16 - Uniform Presentation of Finances)
- Infrastructure and Asset Management Plan

The information requests from ESCOSA appear to be based on the full breadth of information available in the Model Financial Statements and pick up additional extracts from:

- Statement of Financial Position – not referenced within the Uniform Presentation of Finances
- Note 2 – not referenced within the Uniform Presentation of Finances

In addition, the information provision guidelines request a depth of information which is either not referenced in the Long-term Financial Plan and does not appear to be used to generate the graphs which ESCOSA claim will form the basis of their analysis and advice (ie. totals are used to generate graphs but the information request picks up the detailed information which creates that total).

This is inconsistent with ESCOSA's stated Principle 3: Materiality:

> *Focus will be given to key overarching targets and measures. Otherwise, the underlying analysis may become unduly complex/disaggregated, with key observations diluted through unnecessary detail.*

To the extent that ESCOSA does have a discretion the LGA submits that it should be exercised in a manner consistent with the limited scope of review contemplated in the Local Government Act and in Minister Chapman's explanation of amendments contribution.

Requirements of Council

- *We are being asked to provide effect of adopted budget on LTFP by 30 September. Does this mean we have to have reviewed our LTFP by then? I'm not sure how we can achieve this with Budget adopted in July, then Annual Statements prep and Audit all before end of September. In small Councils one person does the bulk of this work.*
- *I am concerned with the impost on staff time in order to provide the information to ESCOSA. Small councils are already VERY time poor. How much staff time do you foresee this taking for each council?*

An update to the legislation states that the strategic management plans must be reviewed *on an annual basis* rather than *as soon as practicable after adopting the council's annual business plan for a particular financial year*. Therefore, providing the most recent version available to ESCOSA at the time the council is required to submit information to the designated authority will satisfy the requirements.

ESCOSA's Draft Framework and Approach for this scheme is currently open for consultation therefore the final scope and methodology is still to be determined. While it can be expected that each council's time commitments may vary based on the findings of their review, the LGA believes that by ensuring ESCOSA are reviewing a reasonable scope of data, the time implications of each council will be relative and reasonable.

Cost and Value of Scheme

- *Vickie Chapman told Parliament that the ESCOSA review would be at a cost of approximately $20,000 per council which I assume was based on the advice of ESCOSA. Can you please advise why the costs have increased to around $52,000 per council given that it represents around 2.7% of the rates revenue of Kimba? In addition, you talked about providing advice to councils. Can you explain the additional benefits to councils of a $52,000 review compared with the initial $20,000 review?*
- *At a recent meeting, ESCOSA indicated they'd be employing several new staff to conduct the reviews, but given ESCOSA's work on councils is between the end of September and end of February (5 months), will the staff work on other matters for the remaining 7 months of the year? If so, will councils be expected to pay for the full annual costs of their salaries or only a portion of them?*
- *The second reading speech notes there is a reasonable expectation that councils will seek to ensure value for money for their ratepayers through finding efficiencies, rather than ratepayers continually paying for increased costs through increased rates. The scheme currently does not appear to provide for an evaluation of its own effectiveness compared to its costs. Such an evaluation should be planned for and included from the outset to ensure that the scheme achieves what it is setting out to do. It will come at a significant cost to ratepayers and as such the same rules should apply.*
- *Small councils will need to increase their rates much higher than CPI just to cover the costs of these reviews. How is that financially sustainable?*
- *If you are advising and considering each council's unique circumstances, why is the cost to undertake each review the same for each council? We already spend 33% of our operational budget on coastal matters and have a significant operational deficit and low SEIFA rating. Why should we pay the same amount as those more affluent councils?*
- *I'm not sure we will get what we need from just dealing with ESCOSA. I think it is a bigger issue than that.*
- *I think the base $52k needs to be looked at; it's greater than what we are charged for an external audit and seems to be that we are being charged for them to learn and understand our industry. For some small councils this will be a lot of money and may result in increased rates to fund the exercise.*
- *We are a first tranche Council and fear that we will wear a large initial cost which should (or could) be reduced as the scope may reduce given they are going all in initially. Keen to bed down an equitable payment arrangement across the sector that will accommodate any change in scope, or as ESCOSA become more adept at the review, which should see costs reduced.*
- *It's hard to conceive a value at this stage.*
- *$52k x 68 councils = $3.5m I am guessing there's a healthy margin in that for the state government.*
- *I would add the evaluation. That is setting actual indicators to measure outcomes against. Not just saying we will compare against some vague principles. What is the actual value ratepayers receive from the process, compared to the cost. These measures need to be set now.*

The LGA contends that the increase in scope has quite obviously contributed to a substantial increase in estimated cost of the Scheme.

Minister Chapman gave the SA Parliament indications that the costs of ESCOSA reviews per council would be in the order of $20,000.

(excl. set up & dvlpmt)	ESCOSA Proposal	Sector understanding
Per council per year	$11,294 per year	$5000 per year
Per review	$45,176 per review	$20,000 per review
Operational (yearly)	**$768,000**	**$340,000**

The Scheme is 'active' for between 5 and 7 months. ESCOSA's figures therefore equate to between $110k and $153k per month.

The LGA's starting position is that the scope and scale of any regulatory framework should be commensurate with the problem that it seeks to address.

The South Australian Productivity Commission undertook an Inquiry into Local Government Costs and Efficiency in 2019 and did not make any recommendations in support of 'rate capping' or 'rate monitoring'.

ESCOSA have not made the case that an increased scope and associated increased cost would provide additional value to councils and communities.

Possible Action

- *Do we have a new opportunity for all Councils to also provide a submission to our new Minister for Local Government - can we achieve change to this Scheme (possibly through more prescriptive regulations to direct ESCOSA)*
- *I would like to understand the benefit of this independent advice. How can we maximise the value and benefits from this scheme?*

The final version of s122 was considered by the LGA Board to be an acceptable compromise to rate capping proposals. There is a level of risk in returning to conversations regarding alternative frameworks in that this may result in a less desirable scheme altogether. We have the opportunity, through collaboration with ESCOSA and their current consultation, to mould a framework that meets the requirements of s122 while demonstrating value to councils and the communities they serve.

Councils are encouraged to form their own submissions or to communicate support of the LGA's advocacy position. Key dates are below:

- **13 May –** submissions to LGA to inform development of sector wide response to ESCOSA (administrative responses welcomed)
- **27 May –** submissions direct to ESCOSA (council endorsed)

LGA requests a copy of any responses provided to ESCOSA directly.

For further information contact the Governance Team

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