ITEM NUMBER: 18.3

CONFIDENTIAL REPORT

FEEDBACK ON ESCOSA PROPOSED FRAMEWORK AND APPROACH - S122 STRATEGIC MANAGEMENT PLAN ADVICE SCHEME

Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:

j. **information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the Council); and would, on balance, be contrary to the public interest.**

Recommendation – Exclusion of the Public – Section 90(3)(j) Order

1. **That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 170/22 Feedback on ESCOSA Proposed Framework and Approach - s122 Strategic Management Plan Advice Scheme in confidence.**

2. **That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 170/22 Feedback on ESCOSA Proposed Framework and Approach - s122 Strategic Management Plan Advice Scheme on the following grounds:**

j. **pursuant to section 90(3)(j) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information of a confidential nature the disclosure of which would divulge information provided on a confidential basis by a public authority, being the Local Government Association of SA (LGA).**

In addition, the disclosure of this information would, on balance, be contrary to the public interest because it is in the public interest for the Council to be able to communicate on a confidential basis with the LGA about proposed sector advocacy and thereby act cooperatively with the LGA in achieving positive outcomes for the local government sector. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

3. **The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.**

Item No: 18.3

Subject: **FEEDBACK ON ESCOSA PROPOSED FRAMEWORK AND APPROACH - S122 STRATEGIC MANAGEMENT PLAN ADVICE SCHEME**

Date: 24 May 2022

Written By: Manager, Strategy and Governance

General Manager: Strategy and Corporate, Ms P Jackson

SUMMARY

As part of reforms to the *Local Government Act 1999* (the Act), section 122 of the Act was amended to include the requirement that a designated authority would "provide provide advice to the council on the appropriateness of the relevant matters in the context of the council's long-term financial plan and infrastructure and asset management plan, and (b) may provide advice in relation to any other aspect of the council's long-term financial plan and infrastructure and asset management plan".

In March 2022, the designated authority, the Essential Services Commission of South Australia (ESCOSA) released a Draft Framework and Approach for a Local Government Rates Oversight Scheme (the Draft Framework) for consultation, which is provided as Attachment 1. Written submissions are required by Friday, 27 May 2022.

In April 2022, the Local Government Association (LGA) released a consultation paper in response to the Draft Framework, which is provided as Attachment 2. As the LGA requested feedback by 13 May 2022, a brief administrative response was provided, which was noted as not being Council's formal position.

As currently proposed by ESCOSA, the Scheme will create an administrative and cost burden for councils with little appreciable value to communities. Nevertheless, as it is a legislated matter, it is unlikely to be rescinded at this time. As such, it is important to ensure the Scheme that is adopted is as practical for Council and as useful to the community as possible. To this end, proposed content for a submission on behalf of Council has been prepared and is provided as Attachment 3.

RECOMMENDATION

That Council

1. **note the Draft Framework and Approach for the Local Government Rates Oversight Scheme issued by ESCOSA as provided as Attachment 1;**

2. note the LGA Consultation Paper on the Scheme provided as Attachment 2 and;

3. endorse the proposed content for a submission on behalf of Council as provided in Attachment 3 and authorise the Chief Executive Officer to submit it to ESCOSA, copied to the LGA, on Council's behalf.

RETAIN IN CONFIDENCE - Section 91(7) Order

4. That having considered Agenda Item 18.3 Feedback on ESCOSA Proposed Framework and Approach - S122 Strategic Management Plan Advice Scheme (Report No: 170/22) in confidence under section 90(2) and (3)(j) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the Report and Attachment 2 be retained in confidence until 30 June 2022.

STRATEGIC PLAN

Statutory obligation

COUNCIL POLICY

Nil

STATUTORY PROVISIONS

Local Government Act 1999

BACKGROUND

As part of reforms to the *Local Government Act 1999*, section 122 of the Act was amended to include the following provisions, which came into effect on 30 April 2022:

(1c) A council must, once in every prescribed period (which must be not less than a period of 3 years), in accordance with a determination of the designated authority, provide information relating to its long-term financial plan and infrastructure and asset management plan to the designated authority in accordance with subsection (1e).

(1d) For the purposes of subsection (1c), the designated authority may determine a schedule relating to each prescribed period that requires different councils to provide information in different financial years of that period (and the financial year in which a particular council is required to provide information according to the schedule is the relevant financial year for that council).

(1e) A council must, on or before 30 September in the relevant financial year for the council, provide to the designated authority all relevant information on the following matters (the relevant matters) in accordance with guidelines determined by the designated authority (if any):

(a) material amendments made or proposed to be made to the council's long-term financial plan and infrastructure and asset management plan and the council's reasons for those amendments;

(b) revenue sources outlined in the funding plan referred to in subsection (1a)(a);

(c) any other matter prescribed by the regulations.

(1f) Following the provision of information by a council under subsection (1e), the designated authority, on or before 28 February in the relevant financial year for the council—

(a) must provide advice to the council on the appropriateness of the relevant matters in the context of the council's long-term financial plan and infrastructure and asset management plan; and

(b) may, if the designated authority considers it appropriate having regard to thecircumstances of a particular council, provide advice in relation to any other aspect of the council's long-term financial plan and infrastructure and asset management plan.

(1g) In providing advice under this section, the designated authority—

(a) must have regard to the following objectives:

(i) the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans;

(ii) the objective of ensuring that the financial contributions proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan are appropriate and any material amendments made or proposed to be made to these plans by the council are appropriate; and

(b) may have regard to any information or matter the designated authority considers relevant (whether or not such information or matter falls within the ambit of subsection (1e)).

This new 'strategic management plan advice scheme' (the Scheme) requires the designated authority, the Essential Services Commission of SA (ESCOSA), on a rotating schedule, to review a range of council strategic management planning documents and provide advice to the council.

The councils to be reviewed in each year of the cycle is determined by ESCOSA. The City of Holdfast Bay is scheduled for year 2025-26, which will be the fourth year of the Scheme. The advice from ESCOSA to Council, along with Council's response, must be published in both the draft and adopted Annual Business Plan.

During Parliamentary debate on the Local Government Reforms, the State Government argued that the sector would benefit from a robust framework for financial accountability. The arrangements were ultimately supported by the local government sector as an alternative to rate capping and have continued to be referred to as a 'rates oversight scheme', despite the change in its nature.

At the time of the reforms being discussed, Council submitted its own alternative proposal to rate capping, stating:

> *"Council appreciates that there are some parts of the community and State who believe that some councils have made unreasonable rating decisions, and that current arrangements provide insufficient recourse to manage these issues. In view of this, Council is amenable to the principle of an 'independent umpire' to review decisions considered problematic. However, Council strongly believes that the definition of 'problematic' must be the choice of the relevant community. Council also strongly objects to administratively burdensome processes being imposed on all councils due to the questionable decisions of some. To this end, Council suggests an alternative model for a process involving a designated authority.*
>
> *Rather than all councils being required to submit their plans for annual independent evaluation, it is recommended that the designated authority be tasked with providing independent advice on plans only where 51% of the number of people who voted in the last election of that council lodge an objection against their proposed plan.*
>
> *Such a mechanism would keep the power over local decisions within communities, while providing assurance of remedy where a substantial number of citizens believe a decision to be incorrect. It should also increase engagement with the annual business planning process as councils will have greater impetus to ensure their communities are invested in the content of their plans and citizens will feel like they have a regular (annual, as opposed to four-yearly at the ballot box) and direct line of influence, should council be making decisions they are unhappy with. The proposed percentage also ensures that the numbers are representative and achievable, thereby improving accountability, efficiently."*

REPORT

In March 2022, the designated authority, the Essential Services Commission of South Australia (ESCOSA) released a Draft Framework and Approach for a Local Government Rates Oversight Scheme (the Draft Framework) for consultation, which is provided as Attachment 1. Written submissions are required by Friday, 27 May 2022.

Refer Attachment 1

In April 2022, the Local Government Association (LGA) released a consultation paper in response to the Draft Framework, which is provided as Attachment 2.

Refer Attachment 2

The LGA has identified a number of concerns with the ESCOSA DFA in the Consultation Paper and intends to advocate strongly on behalf of the sector in response to those. Of particular note are the following:

- ***Scope of the review:*** The scheme established in section 122 focus ESCOSA on the Long-term Financial Plan (LTFP) and Infrastructure and Asset Management Plans (IAMP), in particular any changes to those documents and revenue sources. The proposed information requests from ESCOSA extend beyond the minimum requirements as per the *Local Government (Financial Management) Regulations 2011* to the full suite of information available in the Model Financial Statements and seeks historical information dating back to 2007/08, far in excess of what is reasonable.

- ***Increased in projected costs:*** the increase is scope adopted by ESCOSA has led to a significant increase in projected costs for the scheme. Indications given in Parliament by then Minister Chapman were a scheme that would cost in the order of $20,000 per council, however ESCOSA have suggested the cost per council will be approximately $52,000.

- ***Impact on discretion to determine assumptions used to develop LTFP:*** The LGA strongly objects to any removal of the discretion available within the *Local Government Act 1999* to determine reasonable assumptions to be used in the development of the LTFP. The scheme established in section 122 does not authorise ESCOSA to constrain councils to any particular indices. In attempting to only give weight to one inflation index and discounting any others, ESCOSA inappropriately limit the discretion bestowed upon councils under the *Local Government Act 1999.* The LGA has significant concerns regarding the use of the phrase ‘CPI constrained’, which implies that councils should limit their rate increases to CPI and no more. The practical effect of the use of this expression will result in councils being judged and criticised in relation to a measure that ESCOSA have deemed appropriate when in fact this is a matter for each council to determine.

As the LGA requested feedback by 13 May 2022, a brief administrative response was provided, which was noted as not being Council’s formal position.

The response to the LGA noted that Administration is concerned that the scheme represents administrative burden and cost, rather than appreciable value to the community, but accepting that it's in the legislation and therefore not-negotiable, discussions were focused on how to glean as much benefit for the community as possible.

Matters that were raised as particularly important were that Administration:

- does not agree that CPI is an appropriate tool and will potentially create misunderstanding and unnecessary mistrust,

- has a strong preference to use existing data in the public sphere, without requiring Councils to reformat it,

- has a preference for the State to bear costs since it's a State-desired scheme. That said, given the legislation allows for costs to be shifted to Councils, it would be more equitable to distribute costs on a pro-rata basis relating to population, rather than a flat fee. It's not fair to Councils with very low rating bases to bear the same costs as a Council who can leverage greater resources,

- has a preference for qualitative assessments that take into account local conditions, rather than a standardised quantitative approach. Given that the role of these reviews is not to compare Councils against each other, a standardised quantitative approach is not needed. There is no such thing as a 'standard' council, therefore assessing the sustainability and reasonableness of Council decisions requires a qualitative assessment that takes into account the particular conditions of, and community expectations within, each area.

Other matters indicated for further discussion included:

- issues with the interpretation of the scheme's scope and intent

- flaws in some of ESCOSA's assumptions

- if the purpose of the scheme is to give ratepayers confidence that the rates they're paying are necessary to provide the services they value, the evaluation should consider this matter of value. Many services that councils provide are discretionary – if a community wants higher levels of service, this needs to be factored in. Historical trend assessments will not adequately account for community expectations.

- how to account for the macro-economic conditions and other factors at the time annual budgeting decisions were made. For example, COVID and subsequent cost increases, cost/service shifts from other tiers of government, etc. These can substantially skew results in any given year.

- While agreeing there could be some value in having an independent body give assurance of long term financial sustainability, Administration believe this can be done more effectively by reviewing financial policies and principles and evaluating their reasonableness, rather than relying on historical trend data.

Per the LGA's advice and administration's analysis, as proposed, the Scheme will create an administrative and cost burden for councils with little appreciable value to communities. Nevertheless, as it is a legislated matter, it is unlikely to be rescinded at this time. As such, it is important to ensure the Scheme that is adopted is as practical for Council and as useful to the community as possible. To this end, proposed content for a submission on behalf of Council has been prepared and is provided as Attachment 3 for Council's consideration and endorsement.

Refer Attachment 3

BUDGET

The cost of the Scheme as currently proposed is in the order of $52,000 per council, every four years.

LIFE CYCLE COSTS

Life cycle costs will depend on the final design of the Scheme.

Attachment 1

RATES

Local Government Rates Oversight Scheme

Draft Framework and Approach

March 2022

Request for submissions

The Essential Services Commission (**Commission**) invites written submissions on this paper. Written comments should be provided by **Friday 27 May 2022**.

It is the Commission's policy to make all submissions publicly available via its website (www.escosa.sa.gov.au), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to publish any submission based on length or content (for example containing material that is defamatory, offensive or in breach of any law).

Responses to this paper should be directed to:

Local Government Rates Oversight Scheme – Draft Framework and Approach

It is preferred that submissions are sent electronically to: rates@escosa.sa.gov.au

Alternatively, submissions can be sent to:

Essential Services Commission
GPO Box 2605
Adelaide SA 5001

Telephone: (08) 8463 4444
Freecall: 1800 633 592 (SA and mobiles only)
E-mail: escosa@escosa.sa.gov.au
Web: www.escosa.sa.gov.au

Contact officer: Sean McComish, Economic Regulatory Advisor

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Glossary of terms

ABS	Australian Bureau of Statistics
Commission	Essential Services Commission, established under the *Essential Services Commission Act 2002*
CWMS	Community Wastewater Management System
CPI	Consumer Price Index
IAMP	Infrastructure and Asset Management Plan
LGA	Local Government Association
LGFA	Local Government Finance Authority
LGGC	Local Government Grants Commission
LGPI	Local Government Price Index
LTFP	Long-term Financial Plan
SACES	South Australian Centre for Economic Studies
Scheme	The rates oversight scheme
SEIFA	ABS Socio-Economic Indexes for Australia
SMP	Strategic Management Plan (comprising LTFP & IAMP)

Executive summary

The South Australian Government is introducing a local government rates oversight scheme through amendments to the *Local Government Act 1999,* which will come into operation on 30 April 2022. The scheme is intended to benefit ratepayers through increased transparency over council rates, greater confidence that the rates they pay are at the level necessary for their council to provide the services they value and that council operations are being undertaken on a long-term financially sustainable basis.

The essence of the scheme is that the Essential Services Commission (**Commission**) will provide to each of the State's 68 local councils (on a four-yearly rotational basis) advice on the:

- appropriateness, and effective maintenance and implementation, of the council's long-term financial plan (**LTFP**), and infrastructure and asset management plan (**IAMP**), including any material amendments proposed or made in respect of those plans, and
- appropriateness of proposed financial contributions by the council's ratepayers under those plans.

The Commission's advice will address those matters by reference to historical performance and financial trends, drawing on information which councils are already required to have in place under the *Local Government Act 1999*. The advice will set out that trend information, so as to give context to councils' forward-looking plans, and will identify areas where attention or action may be required to better serve ratepayers' long-term interests. Importantly, the advice to each council will focus on its own trends and plans: the advice will not provide inter-council comparisons.

The Commission does not presently anticipate that the advice will require councils to take specific action, nor will it approve (or otherwise) specific expenditure, programs or projects: those are matters for councils' own decision-making processes.

The advice is to be published and each council will need to publicly address the matters raised (whether or not it adopts that advice) in its annual business plans. The advice will:

- support councils to make decisions relating to their annual business plans and budgets in the context of their LTFP and IAMPs, which together are foundational documents that set out how councils propose to manage their financial position and performance over the longer term, and
- assist councils to make appropriate decisions on the level of financial contributions to be made by ratepayers for the provision of services and infrastructure within the context of those long-term plans and the financing options available to councils (such as the use of borrowings or reserves).

The scheme provides the Commission with discretion in relation to scheme design and implementation. The Commission has prepared this draft Framework and Approach to explain and seek feedback on how it will give effect to the scheme in practice. In doing so, it has identified seven principles which it considers will best deliver an efficient and effective scheme:

- **Monitoring, not regulating**: The scheme relates to monitoring, not economic regulation. As such, the design focusses on providing evidence-based and useful advice. The objective being, through time, to develop a record of a council's performance, relative to its long-term planning, and its response to advice, as the basis for changing behaviours and outcomes over time. The scheme does not provide the Commission with powers to enforce compliance measures, set service standards or regulate any council's rates. In those respects, it differs from other States' council rates regulation frameworks, such as those in Victoria and New South Wales.

- Long-term planning focus: While councils can provide a diverse range of services, they are generally delivered through infrastructure and operations that require long-term planning. As such, in the absence of significant shocks outside of a council's control, its long-term plans would not be expected to exhibit significant variation through time (replacement/renewal expenditure should not materially vary due to political cycles, or short-term transient operational or financial concerns).
- 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.
- Simplicity: The scheme will be as simple as it practically can be and be capable of being applied across the diverse range of councils within South Australia.
- Leveraging existing information and evidence: The Local Government Association collects data and provides guidance material regarding financial and service sustainability. As such, a significant amount of underlying information and a standard accounting framework exists - this will underpin the analytical framework.
- Consistency of application: The scheme will be applied consistently across councils in terms of the underlying processes and analytical framework. Advice across councils will only be similar if all the inputs into the analytical framework (both quantitative and qualitative) result in similar advice being warranted.
- Transparency: Implementation of the scheme requires transparency in processes and approach. Each council will be provided with the information and calculations upon which the advice relating to it has been based.

Underpinning the scheme is the concept that councils should be operated on a long-term financially sustainable basis, for the benefit of ratepayers. The nationally-agreed definition of financial sustainability for the local government sector is:

> *A Council's long-term financial performance and position is sustainable where planned long-term service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services.*

The Commission has considered that concept in the context of three elements:

- Program stability: This relates to the provision of reliable quality services over time, and requires a stable and consistent set of actions, from the perspective of day-to-day operational practices and infrastructure management.
- Rate stability: This relates to charging ratepayers reasonably to fund the services, underpinned by the program of works noted previously (program stability). Rates should be stable, noting that stable does not mean a fixed value. It relates to rates not exhibiting large or unplanned year-on-year variances.
- Intergenerational equity: This relates to fairly sharing services and the associated cost between current and future ratepayers. It requires adopting sound long-term financial management principles, particularly in relation to the balance between debt and cash in financing service delivery.

In this overall context, to provide effective advice under the scheme in an efficient manner, the Commission will draw on existing practices, procedures and protocols. In particular, it will have regard to three financial indicators specified in the *Local Government (Financial Management) Regulations 2011*: the operating surplus ratio, the net financial liabilities ratio and the asset renewal funding ratio. Since 2011, each council has been required to refer to these three indicators in its plans, annual budget, mid-year budget review and annual financial statements.

The Commission considers that these can be used as the basis for the overarching analytical framework for the first cycle of the scheme. The three existing financial indicators have been developed by the sector and should already be applied in practice. They encapsulate financial and service sustainability, cost control and affordability in a way which can be measured consistently on both a forward and backward-looking basis, given their connection with the model accounting framework adopted. This provides a picture of how a council proposes to manage its ongoing financial and service sustainability, in the context of its past decisions, and the role that general rates, affordability and cost control will play.

Future operations should be underpinned by robust, transparent long-term plans that are consistent with each other, and focus on financial sustainability, cost control and affordability. If these are implemented and appropriately monitored, then a council will likely exhibit strong future performance with respect to all three financial indicators – benefiting ratepayers. In contrast, the further a council deviates from these practices, the less likely those outcomes and the greater the risk to long-term financial and service sustainability and to ratepayers.

This draft Framework and Approach explains how the Commission proposes to analyse and provide advice on these matters, including details of timing, methodology, information and evidence requirements and scheme administration costs.

The Commission is consulting on the matters set out in this draft Framework and Approach from 31 March 2022 to 27 May 2022 and encourages any interested stakeholder to provide a submission. (Details on how to make a submission can be found on the inside cover of this document.) Throughout the consultation period, Commission staff are available to discuss the proposals in this consultation document.

OFFICIAL

1 Background

The South Australian local government sector comprises 68 councils. They are highly diverse in terms of geographic area, demographics, relative wealth and income and service portfolios provided. They also face differing local issues, which each council needs to address in a manner appropriate to the circumstances which best protects its ratepayers' long-term interests.

Based on resident population, the largest council in the state serves a community of 174,000 residents,[1] while the smallest council serves a community of only 844 residents. Likewise, based on employee numbers, while the largest council employs 743 full-time equivalent staff (**FTE**), the smallest council employs only 14 FTE. Finally, based on geography, the largest council serves an area of 886,000 hectares, while the smallest serves just 357 hectares.

Collectively, councils manage assets valued in excess of $26bn, with total combined annual income in excess of $2.4bn.

While councils' circumstances vary, they all, to a greater or lesser degree, obtain income through general rates, service charges and grants. General rates are the largest share, accounting for approximately 74% of total income in 2019-20.

Historically, overall long-term growth in general rates has exceeded that of the Australian Bureau of Statistics (**ABS**) Consumer Price Index (**CPI**) by a considerable margin. Over the twelve-year period from 2007-08 to 2019-20, general rates revenue increased by 88%,[2] while CPI over the same period rose by 30%.

1.1 Scheme purpose

While there can be legitimate reasons for such increases, they have given rise to greater attention on local government sector business practices and operations, at both ratepayer and State government level. In particular, the State government has focused on the need to create greater transparency regarding the future direction of general rates for each council, the reasons for any future increases, why these cannot be mitigated through productivity gains (providing the same service portfolio for less cost) and whether there are better ways of financing a council's infrastructure stock/service delivery mechanisms.

The State government has formed the view that, rather than councils self-monitoring, there is benefit in an independent body monitoring and providing advice to councils on those matters. The overarching legal framework outlining how this will be undertaken is outlined within the *Statutes Amendment (Local Government Review) Act 2021*, which amends the *Local Government Act 1999*, with the local government rates oversight provisions commencing from 30 April 2022.

The second reading speech for the Amendment Act states that the intention behind the scheme is to give ratepayers greater confidence that the rates they pay are those necessary for their councils to provide the services they value. The scheme therefore aims to improve the quality of information and advice provided to councils, their administrations, and communities and has two key purposes.

[1] All statistics in this section are as at 2019-20, and are sourced from: https://www.agd.sa.gov.au/sites/default/files/local_government_finances_-_financial_performance_and_position_2018-19.pdf

[2] Derived from LGGC data.

The first is to support councils to make decisions relating to their annual business plans and budgets in the context of their long-term financial plans (**LTFP**) and infrastructure and asset management plans (**IAMP**) – both arising under their Strategic Management Plans (**SMP**). These plans are critical documents, as they lay out how councils are proposing to manage their financial position and performance over the longer term.

The second reading speech and the legislative framework note that these plans should always be the foundation of decisions made by councils on their proposed revenue and expenditure each year. The legislative framework notes that material variations from a LTFP should be appropriate. The impact of variations on a council's financial position and performance should be managed appropriately, with variations implemented in a way that addresses the impact they may have on ratepayers.

The second purpose is to ensure that the decisions councils make on financial contributions made by ratepayers to the provision of services and infrastructure (mainly through general rates) is appropriate within the context of those long-term plans. Councils may be in a financial position where they could reasonably use reserves, or other sensible financing means, rather than imposing rate increases. The second reading speech also 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.

1.2 Purpose and structure of consultation paper

This draft Framework and Approach outlines the Essential Services Commission's (**Commission**) proposed approach to implementing the rates oversight scheme (**the scheme**) which will come into effect on 30 April 2022 under the *Local Government Act 1999* (as amended by the *Statutes Amendment (Local Government Review) Act 2021* – see relevant extracts in Appendix 1). This document comprises the subsequent chapters:

- Chapter 2: The legal framework for the scheme

  This chapter discusses the legal framework within which the scheme will operate and the Commission's understanding of that framework.

- Chapter 3: Implementing the scheme in practice

  This chapter discusses how a council goes through the first cycle of the scheme and how the outcome of this relates to the subsequent cycle.

- Chapter 4: Provision and publication of advice

  This chapter discusses the Commission's proposed approach to developing the advice required as part of the scheme, and how this aligns with the legislative framework and the underlying principles used to develop it.

- Chapter 5: Guidelines and information provision

  This chapter discusses the Commission's approach to guidelines, in the context of council information considered necessary by the Commission to implement the scheme.

- Chapter 6: Developing and publishing the schedule

  The schedule defines when each council will go through the scheme within the first four-year cycle. This chapter discusses the Commission's proposed approach to developing and publishing the schedule.

- Chapter 7: Cost recovery

The legislation provides for the authority implementing and operating the scheme to recover the Commission's costs. This chapter discusses the Commission's proposed approach to cost recovery.

- Chapter 8: Next steps

  This chapter discusses the subsequent process towards implementing the scheme after the release of this draft Framework and Approach.

1.3 Consultation period

The Commission is consulting on the matters set out in this draft Framework and Approach from 31 March 2022 to 27 May 2022 and encourages any interested stakeholder to provide a submission (Details on how to make a submission can be found on the inside cover of this document.) Throughout the consultation period, Commission staff are available to discuss the proposals in this consultation document.

2 The legal framework for the rates oversight scheme

2.1 Legislative requirements and Strategic Management Plans

The *Local Government Act 1999* currently provides for a cycle of planning, aimed at embedding financial sustainability into a council's planning processes. It requires that a council must ensure the sustainability of its long-term financial performance and position.[3]

Councils are also required to have an SMP; specifically, a LTFP and IAMP, both covering a period of at least ten years.[4]

The Act requires that LTFPs be reviewed on an annual basis.[5] As part of that review, a council's Chief Executive Officer must prepare a report on the council's financial sustainability.[6] IAMPs need to be updated within two years after each general election of the council.[7] The council's Audit Committee must provide input to any review of SMPs.

2.2 Summary of the legal framework allowing for the scheme

The legal framework for the scheme, which builds on the existing SMP requirements, covers:

- the authority that will administer the scheme
- how that authority will recover its costs of administering the scheme
- the general mechanics of the scheme and its scope
- publishing of information, and
- information gathering powers.

2.2.1 The authority administering the scheme

The ***designated authority*** administers the scheme. In the absence of a specific person or body being identified, this defaults to the Commission. As matters currently stand, the Commission will undertake this role.

2.2.2 Recovering the costs of administering the scheme

The costs of administering the scheme are to be recovered from each council, as a debt due from the council to the Commission. That is, the Commission will have to invoice each council a proportion of the cost incurred in developing and, thereafter, administering the scheme, unless other billing arrangements are put in place.

2.2.3 General mechanics and scope of the scheme

The implementation of the scheme is split into ***prescribed periods***. A prescribed period cannot be less than three financial years (but can be more). The prescribed period has been set (under regulation) at four years for at least the first cycle of the scheme.

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[3] Section 8.
[4] Section 122 (1a)
[5] Section 122 (4)(a)
[6] Section 122 (4a)(a)
[7] Section 122 (4)(b)

The Commission determines a schedule across the prescribed period, whereby different councils provide information and receive advice in different financial years, on a rotational basis. Through this, the implementation of the scheme can be staggered across the 68 councils based on the schedule determined. The Commission understands that the schedule can be re-set at (but not before) its conclusion, such that the initial schedule may be different to subsequent schedules.

The financial year within the prescribed period for which the council is to provide information relating to its LTFP and IAMP is that council's *Relevant Financial Year*. On or before 30 September of the Relevant Financial Year, the council must provide all relevant information to the Commission on the *Relevant Matters*. This is to be done in accordance with any guidelines determined by the Commission (noting that the making and issuing of guidelines is discretionary). The Relevant Matters are:

- material amendments made or proposed to be made to the council's LTFP and IAMP, and the council's reasons for those amendments
- revenue sources outlined in the LTFP, and
- any other matter prescribed by the regulations.

Within the Relevant Financial Year for a council, the Commission must, on or by the 28 February of the Relevant Financial Year:

- provide advice to the council on the appropriateness of the Relevant Matters, in the context of council's long-term LTFP and IAMP, and
- if considered appropriate by the Commission and having regard to the circumstances of a particular council, provide advice in relation to any other aspects of the council's LTFP and IAMP.

In providing the advice, the Commission must have regard to:

- the need for councils to maintain and implement LTFPs and IAMPs on an ongoing basis, and
- ensuring that the financial contributions proposed to be made by ratepayers, under the council's LTFP and IAMP, are appropriate and any material amendments, made or proposed to be made to these plans, are appropriate.

Finally, the Commission may have regard to any information or matter it considers relevant, regardless of whether the information or matter falls within the ambit of the Relevant Matters.

2.2.4 Publishing information

The following information must be published:

- A council must continue to publish the advice provided by the Commission and any response it has to that advice, in both its draft and adopted annual business plans, until the next Relevant Financial Year for that council.
- The Commission must publish the advice provided to each council, the schedule identifying the relevant financial year for each council and any guidelines that it decides to make.

2.2.5 Information gathering powers

When acting as the designated authority, the Commission may, by written notice, require a council to give it, within a time frame and in a manner stated in the notice (which must be reasonable), information the council possesses that the Commission reasonably requires to perform its functions under the scheme.

2.3 Commission's interpretation of the legal framework

2.3.1 Overarching intent of the legal framework

The legal framework giving effect to the scheme relates to monitoring and the provision of advice, not economic regulation. It does not provide to the Commission any powers to enforce compliance measures, set service standards or regulate any council's rates. In this respect, it differs from other States' council rates regulation frameworks, such as those in Victoria and New South Wales.

The scheme is relatively general and provides the Commission with considerable scope in relation to scheme design and implementation, as well as the advice which is to be provided to each council.

How a council responds to advice provided by the Commission is a matter for that council. So, the scheme can be thought of in part as a mechanism to transparently ascertain what a council's response to advice provided by an independent body is over time.

> Consultation question
>
> 2.1 Do stakeholders agree with this interpretation of the legal framework?
>
> - If not, why not?

2.3.2 The scope and context of the advice

The advice must provide the Commission's assessment of the Relevant Matters:

- Advice relating to any material amendments made or proposed by the council to its LTFP and IAMP, and the council's reasoning for these amendments. In developing its advice, the Commission must have regard to the appropriateness of any material amendments.
- Advice regarding the revenue sources proposed within the LTFP. This is independent of whether any material amendments have been proposed by the council. In doing so, the Commission must have regard to ensuring that the financial contributions proposed to be made by ratepayers, under the council's LTFP and IAMP, are appropriate.
- Advice on any other matter prescribed by the regulations, of which there are none at present.

Further, if it chooses to, the Commission can also provide advice on any other aspects of the council's LTFP and IAMP.

In providing any advice, the Commission must have regard to the council maintaining and implementing LTFPs and IAMPs on an ongoing basis. That is, the advice should not, if followed, have the effect of preventing the council maintaining or implementing appropriate LTFPs and IAMPs.

The Commission's advice with respect to the Relevant Matters is to be formed within the context of the council's LTFP and IAMP; any advice on any other aspect of the council's LTFP and IAMP, outside of the Relevant Matters, must have regard to the circumstances of the council. This means that what might constitute a material amendment is to be considered as specific to each council, rather than through a generic approach.

Overall, the allowable scope and the information used to inform the Commission's advice is broad, with the existing statutory requirement for councils to maintain and implement LTFPs and IAMPs central to the advisory process. As the underlying objective of LTFPs and IAMPs is to assist in ensuring a council's long-term financial and service sustainability - benefiting ratepayers - this suggests the key questions underpinning any advice are:

- Whether a council's LTFP and IAMP are robust, consistent with each other and successfully implemented, with actual performance relative to plans monitored?
- Do the LTFP and IAMP, and the implementation of those plans, ensure the sustainability of the council's long-term financial performance and position?
- What are the implications of the above for a council's long-term financial sustainability and service risk profile, and the consequent appropriateness of the path projected for general rates and other income sources?

In relation to the issue of risk profile, the Commission considers the following factors particularly relevant:

- the cost control measures within the LTFP and IAMP
- the affordability of the LTFP and IAMP, given the demographics of a council's ratepayers, and
- the credibility of the LTFP and IAMP from a practical implementation perspective.

Finally, the Commission does not intend that the advice will, in the first cycle of the scheme, be based on inter-council comparisons, or that it should be used for that purpose. The advice is intended to provide greater transparency and understandability to ratepayers within a particular council area. While comparisons may be helpful as the scheme matures, and to do so is within the scope of advice under the terms of the scheme, the Commission's priority for the first cycle of the scheme is to consider a council's own future plans in the context of that council's own performance over time.

Consultation question

2.2 Do stakeholders agree with this interpretation of the scope and context of the advice to be provided under the scheme?

- If not, why not?

3 Implementing the legislation in practice

3.1 Cycle one: Step one – Defining the Schedule

The scheme is cyclical. Its first cycle is defined by the first year the Commission is required to provide advice, the Prescribed Period, and the Schedule adopted.

The Prescribed Period is set at four years (under regulation), commencing in 2022-23; the Schedule (which is to be published by the Commission) relates to which of the 68 councils will go through the scheme in each year of the Prescribed Period.

If, hypothetically, councils are allocated in equal number across years, then 17 councils will be taken through the scheme each year. The Relevant Financial Years for the first cycle are, therefore, 2022-23, 2023-24, 2024-25 and 2025-26. The Schedule for this first cycle of the scheme is considered in more detail in Chapter 6.

3.2 Cycle one: Step two - Information provision, timing, and guidelines

If a particular council is in the first tranche of councils that go through the scheme, as defined by the Schedule, then that council's Relevant Financial Year is 2022-23. That is the year the council provides information relating to its LTFP and IAMP.

The Commission can make guidelines that outline the type of information required to be provided by councils, and the form and structure of that information. Guidelines can also define the timing of the provision of the information. Information provision, timing and guidelines is considered further in Chapter 5.

3.3 Cycle one: Step three - Provision and publication of advice

For those councils in the first cycle (Relevant Financial Year 2022-23), the Commission must provide advice to the council by no later than 28 February 2023. A council must publish that advice and any response to it, in both its draft and adopted annual business plans, until the next Relevant Financial Year for that council (that is, at the commencement of the next four-year cycle for that council – see section 3.4 below). The Commission also publishes the advice it has provided - but not the council's response to it. The analytical framework the Commission proposes to adopt to develop its advice is detailed in Chapter 4.

3.4 Cycle two: Steps one-to-three

If, for the second cycle, the Prescribed Period continues to be four years, a council which had a Relevant Financial Year of 2022-23 in the first cycle, is likely to have a Relevant Financial Year of 2026-27 for the second cycle (noting that the rotation of councils can be changed in the second Prescribed Period, if it becomes clear that there is a net benefit in doing so).

The three steps outlined for the first cycle would be repeated but with an updated LTFP and potentially an updated IAMP. In addition, the Commission will assess and comment on the extent to which the advice provided in the first cycle was adopted by the council, the council's reasoning for its approach to adopting or not adopting the advice, as well as the council's actual performance, relative to LTFPs and IAMPs as they were at the time of the first cycle assessment.

Through this process, a transparent, evidence-based picture of both a council's response to the advice provided and its actual performance relative to its plans at that time can be developed; however, that picture will only start to emerge during (and following) the second cycle. This is because the first cycle sets a baseline to assess a council's actual response to the advice and its actual performance relative to that which it had planned to put in place.

4 Provision and publication of advice

4.1 Introduction

The legal framework does not prescribe how the Commission should go about developing its advice. This chapter discusses the analytical framework the Commission proposes to use – consistently across all councils - to do so. The questions it addresses are:

- What principles should underpin the analytical framework?
- What overarching analytical framework should be used?
- How should this be applied?
- What should the advice cover and what should be published?
- How does the proposed approach align with the legislative framework and principles?

4.2 The principles underpinning the analytical framework

The Commission proposes that the analytical framework should have regard to the following principles:

Table 1: Principles underpinning the analytical framework

Principle	Reason
Principle 1: Monitoring, not regulating	The scheme relates to monitoring, not economic regulation. As such, the design focuses on providing evidence-based and useful advice. The objective being, through time, to develop a record of a council's performance, relative to its long-term planning, and its response to advice, as the basis for changing behaviours and outcomes over time. The scheme does not provide the Commission with powers to enforce compliance measures, set service standards or regulate any council's rates. In those respects, it differs from other States' council rates regulation frameworks, such as those in Victoria and New South Wales.
Principle 2: Long-term planning focus	While councils can provide a diverse range of services, they are generally delivered through infrastructure and operations that require long-term planning. As such, in the absence of significant shocks outside of a council's control, its long-term plans would not be expected to exhibit significant variation through time (replacement/renewal expenditure should not materially vary due to political cycles, or short-term transient operational or financial concerns).
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.
Principle 4: Simplicity	The scheme will be as simple as it practically can be and be capable of being applied across the diverse range of councils within South Australia.

Principle	Reason
Principle 5: Leveraging existing information and evidence	The Local Government Association (LGA) collects data and provides guidance material regarding financial and service sustainability. As such, a significant amount of underlying information and a standard accounting framework exists - this will underpin the analytical framework.[8] In accordance with the legislative framework[9], if demonstrable gaps in information become apparent that are of relevance to the operation of the scheme, it may be necessary to collect further information in relation to this.
Principle 6: Consistency of application	The scheme will be applied consistently across councils in terms of the underlying processes and analytical framework. Advice across councils will only be similar if all the inputs into the analytical framework (both quantitative and qualitative) result in similar advice being warranted.
Principle 7: Transparency	The implementation of the scheme requires transparency in processes and approach. Each council will be provided with the information and calculations upon which the advice relating to it has been based.

Consultation question

4.1 Do stakeholders consider these principles appropriate for the analytical framework?

- If not, why not? How should they be changed and why?

4.3 Overarching analytical framework

Methodological Proposal 1

The Commission proposes that the analytical framework of the scheme be based upon:

- The definition of financial sustainability as explained in section 4.3.1.
- The financial indicators and targets described in section 4.3.2, comprising:

  Operating surplus ratio, *net financial liabilities ratio* and the *asset renewal funding ratio*.
- The use of the model financial accounting framework described in section 4.3.3.

Supported by an understanding of a council's:

- business planning process for its LTFP and IAMP, and
- implementation of its LTFP and IAMP.

[8] The Commission's understanding is that no specific requirements have been set out by either the South Australian Local Government Grants Commission (LGGC) or the Local Government Finance Authority (LGFA).

[9] The legislative framework (Appendix 1) provides the Commission with broad ranging information gathering powers. It also allows for the information required in SMPs to be amended by regulation.

4.3.1 The meaning of financial sustainability

The LGA has undertaken considerable work to assist councils in meeting their financial sustainability obligations under the *Local Government Act (1999*). To complement councils' obligations regarding SMPs, the LGA provides a series of information papers, covering aspects of financial sustainability and financial governance in local government.[10] These papers were originally published between 2006 and 2011. There is no prescribed cycle for updating these papers. Any updating is undertaken by the LGA when it considers it relevant to do so.

Of relevance to the analytical framework is the definition of financial sustainability, along with the associated overarching financial indicators used to gauge performance relative to that concept. As set out by the LGA in its papers, the nationally-agreed definition of financial sustainability for the local government sector is:

> *A Council's long-term financial performance and position is sustainable where planned long-term service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services.*

This can be considered in the context of the following three elements:

Table 2: Elements of financial sustainability

Element	Description
Program stability	This relates to the provision of reliable quality services over time, and requires a stable and consistent set of actions, from the perspective of day-to-day operational practices and infrastructure management.
Rate stability	This relates to charging rate payers reasonably to fund the services, underpinned by the program of works noted previously (program stability). Rates should be stable, noting that stable does not mean a fixed value. It relates to rates not exhibiting large or unplanned year-on-year variances.
Intergenerational equity	This relates to fairly sharing services and the associated cost between current and future ratepayers. It requires adopting sound long-term financial management principles, particularly in relation to the balance between debt and cash in financing service delivery.

In addition, the Commission notes that the financial sustainability of any given council should take account of cost control and affordability. This is because any council will find it challenging to develop a credible long-term financial and service sustainability strategy if the costs associated with the services it delivers, given the infrastructure used to deliver them, do not reflect the financial capacity of its ratepayers.

4.3.2 The role of financial indicators in assessing financial sustainability

The LGA considers performance, relative to this definition of financial sustainability, can be encapsulated in the following financial indicators, which are specified in the *Local Government (Financial Management) Regulations 2011*.

[10] There are 21 current information papers on the LGA website, accessible to members.

Table 3: Overarching financial indicators specified by the LGA

Financial Indicator	Description
Operating surplus ratio	**Explanation:** The operating surplus ratio relates to a council's financial performance. **Definition:** The *Operating Surplus (Deficit)* is defined as: *Total Operating Income*[11] *less* *Total Operating Expenses*[12] The *Operating Surplus Ratio* is defined as: *Operating Surplus (Deficit) ÷ Total Operating Income* **Application:** Applied historically in the context of audited financial statements, and to forward-looking LTFPs. **Target:**[13] The LGA considers that, on average, over time, an operating surplus ratio of between zero and ten percent is appropriate. **Interpretation:** A positive ratio indicates the percentage of operating income available to help fund proposed capital expenditure, or to reduce debt (if this represents an appropriate long-term strategy).

[11] Total Operating Income comprises: Rates; Statutory Charges; User Charges; Grants, subsidies and contributions; Investment income; Reimbursements; Other income; Net gain – equity accounted Council businesses.

[12] Total Operating Expenses comprises: Employee costs; Materials, contracts & other expenses; Depreciation, amortisation & impairment; Finance costs; Net loss – equity accounted Council businesses. An Operating Surplus Ratio of zero would, therefore, cover all of these costs.

[13] While section 5(1)(c) of the Local Government (Financial Management) Regulations 2011 allows councils to set their own target ranges for each of the key financial indicators, the Commission has adopted the LGA target ranges as a basis for its analysis. These were established/agreed during the development of the LGA Financial Sustainability Papers (2006-2011).

Financial Indicator	Description
Net financial liabilities ratio	**Explanation**: The net financial liabilities ratio relates to a council's financial position. **Definition**: *Net Financial Liabilities* are defined as: *Total Liabilities (excl liabilities for equity accounted investments in Council businesses)* *less* *Current Assets (Cash and Cash Equivalents)* *less* *Current Assets (Trade and Other Receivables)* *less* *Current Assets (Other Financial Assets)* *less* *Non-Current Assets (Financial Assets)* The net financial liabilities ratio is: *Net financial liabilities ÷ Total Operating Income* **Application:** Applied historically in the context of audited financial statements, and to forward-looking LTFPs. **Target**: The LGA considers a ratio of between zero and 100%, but possibly higher in some circumstances, is appropriate. Also, councils that provide Community Wastewater Management Services (**CWMS**) are likely to need to have a higher level of net financial liabilities.[14] **Interpretation:** A reducing ratio over time indicates that a council's capacity to meet its financial obligations from operating income is increasing, but this can be at the expense of intergenerational equity.

[14] Paper 9, p.8.

Financial Indicator	Description
Asset renewal funding ratio[15]	**Explanation**: The asset renewal funding ratio relates to a council's asset management performance. **Definition**: Since 2013, the asset renewal funding ratio has been defined as: *Asset Renewal Expenditure ÷ IAMP Renewal Expenditure* Where *IAMP Renewal Expenditure* is that required according to the IAMP. Prior to 2013, the asset renewal funding ratio (then known as the asset sustainability ratio), was defined as: *Net Asset Renewal Expenditure ÷ Depreciation* Where: *Net Asset Renewal Expenditure* = *Expenditure on Renewal/Replacement of Assets* *less* *Sale of Replaced Assets* **Application:** Applied historically in the context of audited financial statements and relevant IAMP, and to forward-looking LTFPs and the current IAMP. **Target**: The LGA considers a ratio greater than 90% but less than 110% appropriate. **Interpretation:** A ratio in line with the target indicates that existing assets are being renewed and replaced in line with a council's IAMP. A ratio outside of these bounds conveys the converse.

Since 2011, each Council has been required to refer to these three indicators in its LTFP, annual budget, mid-year budget review and annual financial statements.[16] The LGA publishes an annual Financial Indicators Report, providing latest and historical values, as well as comparisons of the three indicators for the local government sector as a whole.[17]

[15] While the definition of this ratio changed in 2013, it continued to be known as the asset sustainability ratio until 2018.
[16] Local Government (Financial Management) Regulations 2011
[17] See Paper 9, p.4, FN8.

4.3.3 Measuring the financial indicators in a consistent manner

The measurement of these financial indicators is specific to the local government sector and is supported by councils having adopted a model financial accounting framework since 2007-08. That framework defines the:

- component parts of the statement of comprehensive income, statement of financial position, and statement of cash flows
- definitions of those component parts, and
- requirements of the supporting notes to the statements.

This has been put in place to facilitate the financial statements across South Australian councils being prepared in a consistent manner, from both a definitional and detail perspective, such that the calculation of the financial indicators can be tracked through the three principal financial statements mentioned above. This applies to both historical information and to each council's forward-looking LTFP.[18] This allows a council's forward-looking projections to be linked to its historical performance. It can also assist in comparisons across councils, to the extent that such comparisons might provide useful insights.

4.3.4 Applicability to the analytical framework

These tools can be used as the basis for the overarching analytical framework for the first cycle of the scheme. The three existing financial indicators have been developed by the sector (and should be applied already) and encapsulate each council's approach to its LTFP and IAMP – and hence to financial and service sustainability, cost control and affordability.

Further, they can be measured consistently on both a forward and backward-looking basis, given their connection with the model accounting framework adopted. In doing so, they can capture a council's actual practical business operations historically and its expected business operations in the future. This provides a picture of how a council seeks to manage its ongoing financial and service sustainability, in the context of its past decisions, and the role that general rates, affordability and cost control will play.

If future business operations are underpinned by robust, transparent LTFPs and IAMPs that are consistent with each other, that focus on financial sustainability, cost control and affordability, and are implemented and appropriately monitored, a council will likely exhibit strong future performance with respect to all three financial indicators – benefiting ratepayers. In contrast, the further a council deviates from these practices, the less likely those outcomes and the greater the risk to long-term financial, service sustainability and ratepayers.

Consultation question

4.2 Do stakeholders consider this an appropriate analytical framework?

- If not, why not? How should it be changed and why?

[18] The Commission notes that the Local Government (Financial Management) Regulations 2011 section 5(1) specifies that the LTFP must include a summary of proposed operating and capital investment activities (section 5(1)(b)) and estimates and target ranges for all three key financial indicators (section 5(1)(c)). To prepare these forecasts, information must be drawn from all three principal financial statements - the statement of comprehensive income, statement of financial position, and statement of cash flows.

4.4 Applying the analytical framework

There are various factors that need to be considered in the context of applying the analytical framework outlined above:

- What role do historical trends, scale, and inflation play within the analytical framework?
- What are the key questions that the framework needs to address?
- How can the framework address these questions and what information is needed to do so?

4.4.1 The role of historical trends, scale, and inflation

Methodological Proposal 2

The Commission proposes that the analytical framework adopted should account for:

- Historical financial trends using the model financial statements from 2007-08.
- The number of rateable properties for each council.
- Inflation, using the ABS CPI.

4.4.1.1 The relevance of historical trends

The legislative framework requires the Commission to consider a council's current LTFP and IAMP - which are forward-looking. The Commission has discretion as to whether it places these plans in an historical context. As noted in section 4.3.4 above, historical context appears to the Commission to be critical in understanding the present position of any council and how it seeks to manage financial sustainability, cost control, affordability and general rates going forward. Given this, the Commission considers that, when developing its advice, it is necessary to place LTFPs and IAMPs in the context of historical trends.

Consultation question

4.3 Do stakeholders consider it necessary to consider historical trends when applying the analytical framework?

- If not, why not? How should it be changed and why?

4.4.1.2 What historical information is needed from each council?

The Commission is proposing to collect historical data from 2007-08 onwards, largely based upon the audited model financial statements that were introduced at that time. Each council should have readily available access to these accounts (and they should have been made publicly available). These statements provide a complete understanding of the movements in each council's income, expenditure, asset stock, reserves and borrowings since their introduction. This allows the identification of any trends within the financial indicators and the underlying variables feeding into those ratios. For a four-year prescribed period, this would result in the following information being required.

Table 4: Collection of historical financial information by Relevant Financial Year

Relevant Financial Year	Fully audited information[19]
2022-23	2007-08 to 2020-21
2023-24	2007-08 to 2021-22
2024-25	2007-08 to 2022-23
2025-26	2007-08 to 2023-24

In addition, the Commission is proposing to collect information on the number of rateable properties for each council since 2007-08. The Commission's understanding is that councils require this information for billing purposes and provide it to the LGGC. This information will be used to assist in scaling various information sets.

Consultation question

4.4 Do stakeholders consider this to be an appropriate approach for the collection of historical information?

- If not, why not? How should it be changed and why?

4.4.1.3 Accounting for scale

Various councils have and will continue to exhibit growth in the number of rateable properties within their geographic areas. Such growth can place services under pressure, for example, driving increased maintenance and renewal needs or new capital investment in infrastructure if additional service capacity is needed. Growth can also provide greater potential for economies of scale, as existing costs can be spread over a larger rate base. So, while overall costs may rise, the revenue needed on a rateable property basis might increase at a lower rate, or even decrease, if scale effects are realised.

Given this, the Commission considers that, to understand the implications of growth, it is appropriate to consider information on a per rateable property basis, as and when needed. This normalises for growth in a simple, understandable way, so providing a proxy to assess whether a council is achieving scale effects as the number of rateable properties changes.

Consultation question

4.5 Do stakeholders agree that, where it is useful to do so, information should be normalised on a per rateable property basis?

- If not, why not? How should it be changed and why?

4.4.1.4 Accounting for inflation

The second reading speech for the scheme sets out 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. This efficiency consideration is important, as councils are monopoly providers of services and have the theoretical capacity to pass

[19] For a Relevant Financial Year of 2022-23, the Commission will assess actual financial information up to end 2020-21, and the relevant LTFPs that build on from there.

through to ratepayers inefficiently incurred costs. Ratepayers cannot substitute to another service supplier and are legally required to pay the rates and service charges set by a council.

It is therefore helpful, for the purposes of the scheme, to compare the growth rate in a council's operating income and operating expenditure data to an underlying measure of inflation that is most relevant to ratepayers.

Given the context and purpose set out in the second reading speech, the appropriate index to utilise for that task is the ABS Consumer Price Index (**CPI**).[20]

The CPI is a general measure of price inflation for the household sector. It measures changes in the price of a fixed quantity of goods and services acquired by consumers in metropolitan private households. This group of consumers includes a wide variety of sub-groups such as wage and salary earners, the self-employed, self-funded retirees, age pensioners, and social welfare beneficiaries.[21]

Using the CPI in the context of the scheme will afford councils and ratepayers the opportunity to improve their understanding of the extent to which growth in a council's operating income and operating expenditure is in line with, greater, or less than general price growth within the economy. This is relevant to the Commission's statutory task of assessing councils' LTFPs and IAMPs, and the associated issues of cost control, affordability and general rates, for the following reasons:

- Subject to service levels being maintained, growth in a council's operating expenditure on a per rateable property basis relative to the CPI provides a proxy for the council's general performance in controlling its costs. If operating expenditure growth per rateable property is broadly in line with the CPI, the council is potentially performing in-line with the overall economy in terms of cost control. If it is significantly greater than the CPI, the council's performance might be worse than the overall economy, unless there is an evidence-based reason for this outcome. If significantly less than the CPI, the council's performance would appear better than the overall economy, unless this has been at the expense of service reductions.
- The ability of the ratepayers of a council area to consistently absorb growth in general rates per rateable property that is greater than the CPI is dependent on the income base of the ratepayers and the extent to which this increases relative to the CPI. If a council's ratepayers have a relatively low-income base that struggles to keep pace with the CPI, it is unlikely that the council will be able to sustain rates growth per rateable property that is persistently above the CPI over the longer term. The converse applies if a council's ratepayers have a relatively high-income base that generally rises at a rate above the CPI.

The Commission notes that there is a council-specific index used within the local government sector: the Local Government Price Index (**LGPI**), developed by councils in conjunction with the South Australian Centre for Economic Studies.[22] The LGPI measures price movements faced by councils in respect of their purchases of goods and services. Although it may be considered a robust tool for that particular purpose, given the focus of the second reading speech, it is not as relevant for the purposes of this scheme.

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[20] For actual inflation, it is proposed to use the ABS Australian CPI (weighted average of eight capital cities) index. For forecast inflation, it is proposed to use the RBA short- to medium-term forecast and, thereafter, the RBA long-term inflation target.

[21] ABS, A Guide to the Consumer Price Index: 17th Series, 2017, accessed 8 December 2021, available at: http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6440.0Main%20Features22017?opendocument&tabname=Summary&prodno=6440.0&issue=2017&num=&view

[22] SACES, About the Local Government Price Index, available at: https://www.adelaide.edu.au/saces/economy/lgpi/

> Consultation question
>
> 4.6 Do stakeholders agree that use of the CPI is an appropriate index to utilise when considering a council's operating income and expenditure growth over time?
>
> If not, why not? How should it be changed and why?

4.4.2 The key questions to address

The Commission considers the following relevant to developing advice in the context of the legal framework:

- Whether a council's LTFP and IAMP are robust, consistent with each other and successfully implemented, with actual performance relative to plans monitored?
- Do the LTFP and IAMP, and the implementation of those plans, ensure the sustainability of the council's long-term financial performance and position?
- What are the implications of the above for a council's long-term financial sustainability and service risk profile, and the consequent appropriateness of the path projected for general rates and other income sources?

In relation to risk profile, the Commission considers the following factors relevant.

- The cost control measures within the LTFP and IAMP.
- The affordability of the LTFP and IAMP, given the demographics of the ratepayers.
- The credibility of the LTFP and IAMP from a practical implementation perspective.

This is because LTFPs and IAMPs that do not demonstrate robust cost control measures will not be affordable, are unlikely to be implementable and will likely carry greater risk than an LTFP and IAMP exhibiting the converse characteristics. To assess this, the Commission considers the following questions of relevance and proposes to apply these in its internal analysis when developing advice.

Table 5: Key questions for the Commission in implementing the framework

Area	Key questions
Operating Surplus Ratio	To understand what is driving a council's operating surplus ratio and the extent to which this indicates potential concerns regarding affordability and cost control risk. Operating surplus ratio ▶ *Question 1: How has the council's operating surplus ratio performed historically?* ▶ *Question 2: How is the council's operating surplus ratio projected to perform?* Underlying variables: Total operating income and total operating expenses ▶ *Question 3: What trends in total operating expenses and total operating income are contributing to this performance?* Underlying variables: Total operating income ▶ *Question 4: What are the trends in the sources of operating income?* ▶ *Question 5: What are the trends in operating income per rateable property?* ▶ *Question 6: How do the trends in operating income per property compare to CPI growth?* ▶ *Question 7: Is there any indication of affordability risk existing or emerging?* Underlying variables: Total operating expenses ▶ *Question 8: What are the trends across operating expenses categories?* ▶ *Question 9: What are the trends in operating expenses per rateable property?* ▶ *Question 10: How do the trends in operating expenses per property compare to CPI growth?* ▶ *Question 11: Is there any indication of cost control risk developing or emerging?*
Net financial liabilities ratio	To understand what is driving a council's net financial liabilities ratio and the extent to which this indicates potential concerns regarding financial and service sustainability risk. Net financial liabilities ratio ▶ *Question 12: How has the council's net financial liabilities ratio performed historically?* ▶ *Question 13: How is the council's net financial liabilities ratio projected to perform?* Underlying variables: Net financial liabilities and total operating income ▶ *Question 14: What trends in net financial liabilities and total operating income are contributing to this performance?* Underlying variables: Net financial liabilities ▶ *Question 15: What trends in total borrowings relative to total liabilities are contributing to this performance?* ▶ *Question 16: What trends in cash and cash equivalents are contributing to this performance?*

Area	Key questions
	▶ *Question 17: Is there any indication of financial sustainability risk developing or emerging?* The more detailed trends in total operating income are considered as part of the analysis of the operating surplus ratio.
Asset renewal funding ratio	To understand what is driving a council's asset renewal funding ratio. This relates to assessing the consistency of the LTFP and IAMP, and the extent to which these appropriately reflect actual asset condition. This has implications for financial and service sustainability, as well as affordability and cost control risk. Asset renewal funding ratio ▶ *Question 18: How has the council's asset renewal funding ratio performed, and how is it projected to perform, based on the IAMP expenditure approach?* ▶ *Question 19: How has the council's asset renewal funding ratio performed, and how is it projected to perform, based on the depreciation approach?* ▶ *Question 20: To what extent do the two approaches result in an alignment of the asset renewal funding ratio calculated?* Underlying variables: Asset renewal/replacement expenditure, IAMP renewal/replacement expenditure and depreciation ▶ *Question 21: What trends in asset renewal/replacement expenditure and IAMP renewal/replacement expenditure are contributing to the performance of the asset renewal funding ratio, based on the IAMP expenditure approach?* ▶ *Question 22: What trends in asset renewal/replacement expenditure and depreciation are contributing to the performance of the asset renewal funding ratio, based on the depreciation approach?* ▶ *Question 23: How is any difference explained within the council's LTFP and IAMP?* Underlying variables: Asset renewal/replacement expenditure ▶ *Question 24: What are the trends contributing to the asset renewal expenditure?* ▶ *Question 25: What are the trends in renewal/replacement expenditure relative to new/enhancement expenditure?* Underlying variables: IAMP renewal/replacement expenditure ▶ *Question 26: To what extent does the IAMP renewal/replacement expenditure relate to an up-to-date assessment of actual asset condition?* Underlying variables: Depreciation ▶ *Question 27: What is contributing to the trend in depreciation?* ▶ *Question 28: Is IAMP renewal/replacement expenditure reasonable given the trend in depreciation and the response to Question 26?* ▶ *Question 29: Overall, based on the assessment of the asset renewal funding ratio, is there any indication of financial and service sustainability, cost control or affordability risk developing or emerging?*

The above questions 18 to 29 look at the asset renewal funding ratio using the two approaches (using either IAMP expenditure and depreciation as the denominator) that councils have used over time. The Commission considers it useful to consider both approaches in its analysis. It does not, however, endorse one approach over the other. Box 1 provides a summary of why the Commission uses both approaches in its analysis.

Box 1: Depreciation and IAMP replacement/renewals costs

The Commission notes that councils have moved from using depreciation as the denominator in the asset renewal funding ratio, to using the IAMP figure for replacement/renewal expenditure. The Commission is proposing to consider the asset renewal funding ratio using both approaches. This is because:

- Using both depreciation and the IAMP replacement/renewal expenditure approaches for the asset renewal funding ratio provides a way of comparing whether the asset lives assumed in each case are broadly consistent and, if not, why this is the case. A council operates in perpetuity, it does not face competition in providing its services and provides public goods, so there does not appear to be any immediate reason why implied asset lives with respect to depreciation and IAMP replacement/renewal expenditure should vary significantly.
- The IAMP figure for replacement/renewal expenditure need not be independently tested or audited. There is, therefore, the potential, at least in the short- and medium-term, for it to be set within a LTFP to meet the target range for the asset renewal funding ratio. Also, when there are budget and/or logistical constraints, there can be an incentive to defer renewal/replacement expenditure, while prioritising new capital projects. These factors may result in an IAMP that has no causal relationship to what is happening to asset condition 'on-the-ground', and so to the actual remaining useful asset lives. This may place medium- to long-term service delivery and long-term financial sustainability at risk which, in the Commission's view, is not aligned with council residents' interests.
- From an asset management perspective, the Commission considers that the replacement/renewal expenditure in an IAMP should be based on an asset condition assessment (that reflects the size of the council and need not be complex). This should be independent of the LTFP, the results of the two being combined only for the purposes of calculating the asset renewal funding ratio and, thereafter, assessing the implications of this.
- If, for a given value for the asset, depreciation is twice the level of IAMP replacement/renewal expenditure, this suggests that remaining useful asset lives, based on the IAMP, are around twice as long, as that implied by the depreciation schedule. This has implications for the level of general rates and charges that ratepayers face, intergenerational equity between generations of ratepayers, and the risks they face.
- In the above example, if the depreciation schedule more appropriately reflects the actual remaining asset lives, this suggests that the IAMP renewal/replacement figure is too low, placing longer-term service delivery and financial sustainability at risk. If such a risk materialises, it is borne by council residents, not the council. It manifests through deteriorating service delivery, and the likelihood of higher general rates and charges in the future, to restore infrastructure that has been allowed to deteriorate. The reasons given to why such an outcome could be in residents' interests would need to be understood and considered.
- Alternatively, if the IAMP renewal/replacement expenditure more appropriately reflects the actual remaining asset lives, this suggests that the depreciation schedule is higher than necessary. A council could consequently be collecting more in general rates and charges than is necessary, given the actual lives of the assets. This means that current residents are paying more than they need to cover renewal/replacement expenditure, relative to future residents,

which has implications for intergenerational equity. There is also the question of what the additional income is being used for, how this relates to affordability and cost control, both now and in the future, and whether this is in residents' interests.

The above relates to identifying systematic patterns through time. Renewal/replacement expenditure is likely to vary materially between years, while annual depreciation charges are much more constant. It is, therefore, important to look at medium- to long-term trends, and cumulative renewal/replacement expenditure relative to cumulative depreciation when considering these comparisons. The Commission's proposed analytical framework does this.

The questions in Table 5 apply to both the existing LTFP and IAMP and to any revised LTFP and IAMP for a council. They can be assessed with a combination of quantitative and qualitative information. Applying them identifies the extent to which a revised LTFP and IAMP has any material amendments and the implications of those, in terms of financial and service sustainability, cost control and affordability risk.

What constitutes a material amendment will be dependent upon the council being considered. There are 68 councils in South Australia and, as noted in Chapter 1, they are highly diverse in terms of geographic area, demographics, relative wealth and income and service portfolios provided. As such, the Commission does not consider it possible, or appropriate, to provide an empirical or rules-based approach to define what a material amendment means across all councils.

Instead, the Commission's proposed approach is to apply the above questions in respect of each council within the analytical framework it proposes to apply in preparing its advice, as outlined in the following section. This places the concept of a material amendment within the context of each council's historical and projected performance.

Consultation questions

4.7 Do stakeholders consider these to be appropriate questions for implementing the analytical framework?

- If not, why not? How should they be changed and why?

4.8 Do stakeholders consider the proposed approach to a material amendment appropriate?

- If not, why not? How should it be changed and why?

4.4.3 How the analytical framework can address the key questions and what information is required to do so

Methodological Proposal 3

The Commission's proposed analytical framework focuses upon assessing risk profiles and addressing the key questions in Table 5 by comparing:

- Historical trends to the existing SMP (comprising the LTFP and IAMP).
- Historical trends to any revised SMP (comprising any revised LTFP and IAMP).
- The existing LTFP and IAMP, to any revised LTFP and IAMP.

for the operating surplus ratio, net financial liabilities ratio, and the asset renewal funding ratio, and the underlying drivers thereof.

Quantitatively, this will cover trends starting from 2007-08, through to the final year of a council's LTFP, which is dependent upon a council's Relevant Financial Year.

The main quantitative information sources used are:

- Annual audited financial statements and annual forecasts of the financial statements.
- Actual annual rateable properties and the forecast number of rateable properties annually.
- Actual annual CPI and annual CPI forecasts.
- The Socio-Economic Indexes for Australia (**SEIFA**) Index of Economic Resources for each LGA, published by the ABS.
- The *Councils in Focus* database.

Qualitatively it will comprise information which should already be in existence:

- A council's LTFP document for the financial year preceding its Relevant Financial Year.
- A council's current IAMP, noting that, at a minimum, an IAMP is to be updated within two years after each general election of the council.[23]
- CEO financial sustainability report for the financial year preceding the Relevant Financial Year.
- A council's Audit Committee reviews for the most recent signed-off LTFP and IAMP.
- Any existing LTFP and IAMP document for the Relevant Financial Year.
- How the council approaches measuring its performance relative to LTFPs and IAMPs
- How a council assesses and accounts for its residents' ability to finance its plans.
- A council's consultation process regarding its LTFPs and IAMPs.
- Information from the LGFA on a council's ability to carry debt.[24]

[23] Section 122(4)(b). The implication of this is that IAMPs may typically be reviewed every four years, with the maximum time between reviews being six years.

[24] The second reading speech noted that ESCOSA's advice to councils could be to use reserves, or other sensible financing means, instead of rate increases.

The Commission considers the most tractable way to describe how the analytical framework can be articulated to address the questions in Table 5 is by way of a hypothetical example (it should be noted that this is for illustrative purposes only).

4.4.4 Comparison of historical trends to the existing SMP

Fictional Council A's Relevant Financial Year is 2022-23. This means that, no later than 30 September 2022, it is to provide to the Commission with the information required relating to the Relevant Matters. The comparison of historical trends to the existing SMP would comprise the following quantitative information based on historical actuals, the 2021-22 LTFP and the current IAMP:

Table 6: Information requirements – existing SMP

Time period	Information available
Historical actuals 2007-08 to 2019-20	▶ Annual audited financial statements based upon the model financial statements. ▶ The operating surplus, net financial liabilities, and asset renewal funding ratios derived from the audited financial statements and the IAMP. ▶ The actual number of rateable properties. ▶ The SEIFA Index of Economic Resources for 2011 and 2016.[25]
Historical estimates 2020-21	▶ Annual financial statements based upon the model financial statements. ▶ The operating surplus, net financial liabilities, and asset renewal funding ratios derived from the financial statements and the IAMP. ▶ An estimate of the number of rateable properties.
Forward forecasts 2021-22 to 2030-31	▶ Annual financial statements based upon the model financial statements. ▶ The operating surplus, net financial liabilities, and asset renewal funding ratios derived from the financial statements and the IAMP. ▶ Forecasts of the number of rateable properties.

In addition, Council A should have the following qualitative information available:

- Council A's actual 2021-22 LTFP and its current IAMP documents.
- Council A's CEO report on its financial sustainability for 2021-22.
- Council A's Audit Committee's input relating to the most recent reviews of the LTFP and IAMP.
- How Council A approaches measuring its performance relative to its LTFPs and IAMPs.
- How Council A assesses and accounts for its residents' ability to finance its plans.
- Council A's consultation process regarding its LTFP and IAMP.

In terms of external information sources, the Commission will also have access to:

- ABS actual CPI figures for 2007-08 to 2021-22.

[25] The SEIFA Index of Economic Resources summarises variables relating to the financial aspects of relative socio-economic advantage and disadvantage. Further information on the SEIFA Index is provided in Appendix 3.

- Forecasts of CPI from 2022-23 to 2030-31.
- Information from the *Councils in Focus* database for cross-checking historical information.
- Information from the LGFA regarding Council A's capacity to carry debt.

Based on this information, the analytical framework proposed can develop an evidence-based picture, using the financial indicators as a starting point, to consider the key questions and identify any potential risks.

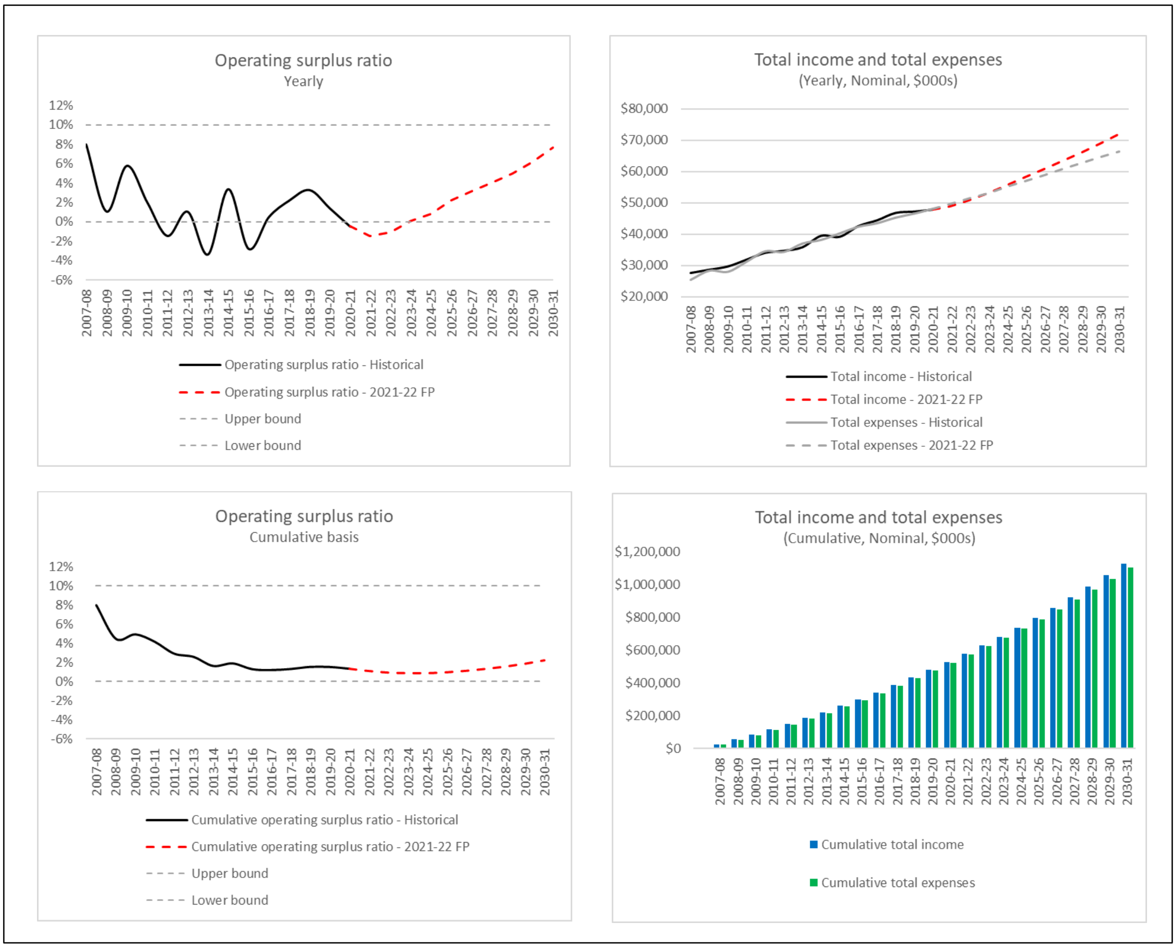
4.4.4.1 Council A's operating surplus ratio

The operating surplus ratio is defined as:

Operating surplus/deficit ÷ Total operating income

The information outlined in Table 6 and obtained for Council A would allow its operating surplus ratio to be considered over 2007-08 to 2030-31 on both a yearly and a cumulative basis. This allows trends in the operating surplus ratio projected over the 2021-22 LTFP to be compared to historical trends, in the context of the target bands defined by the LGA. This relates to consideration of questions 1 to 3 in Table 5.

Figure 1: Trends in Council A's operating surplus ratio

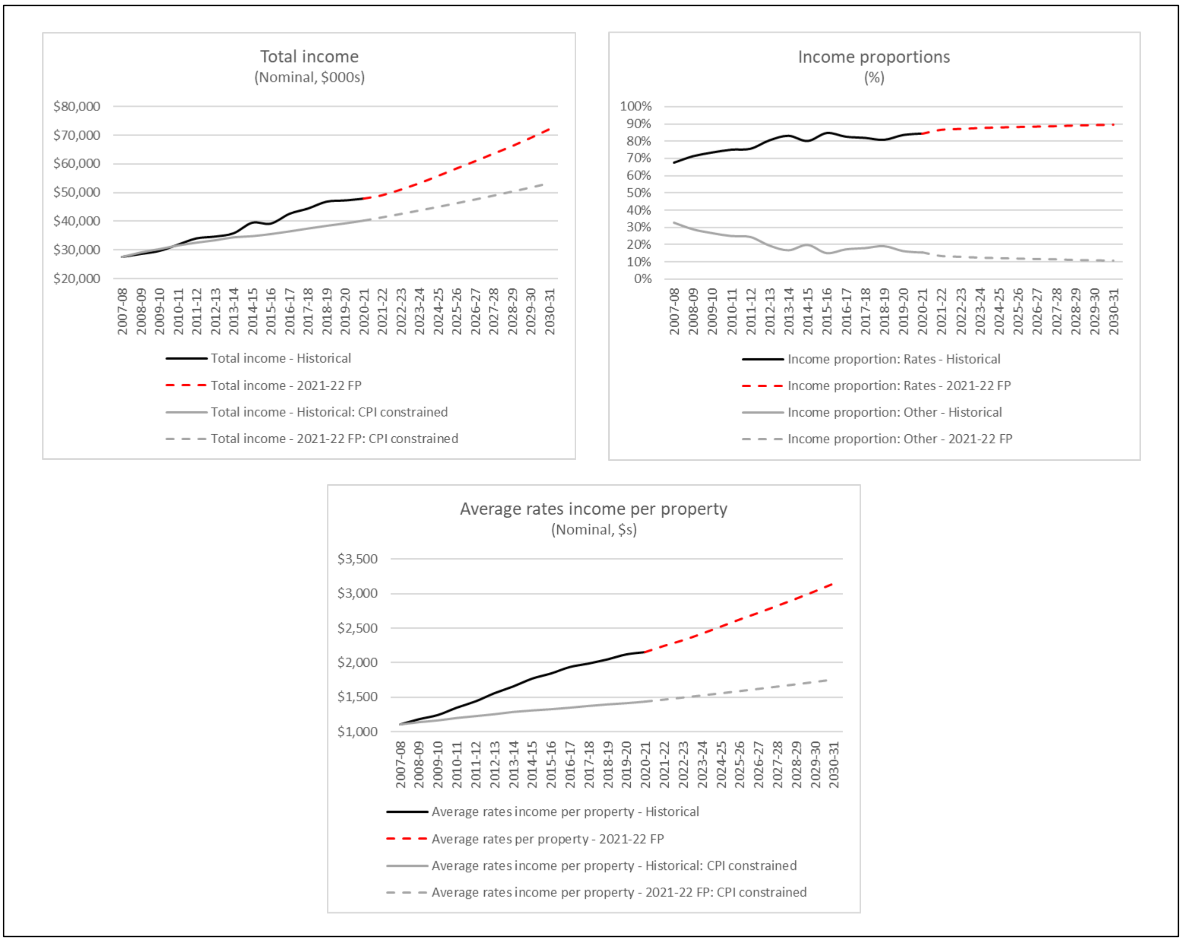


Council A projects its operating surplus ratio to increase over the period of the 2021-22 LTFP, relative to recent historical trends. Why this is so may be identified by assessing the trends in the component parts of the ratio; that is, total operating income and total operating expenses. Both total operating expenses and total operating income are forecast to rise. As the rate of increase in total operating income exceeds that of total operating expenses, the operating surplus ratio increases. On a cumulative basis, the increase in the operating surplus ratio is more muted over the 2021-22 LTFP.

This leads to the need to gain an understanding of what lies behind the projected increases in total operating income and total operating expenses. In terms of operating income, this relates to questions 4 to 7 in Table 5.

In this example, it can be seen from Figure 2 below that Council A is becoming increasingly reliant upon rates as its main source of operating income. Historically, average rates per rateable property have risen by more than would have been the case if the increase matched CPI. This trend is forecast to become more acute over the 2021-22 LTFP. This is also mirrored in the trend in total operating income over the 2021-22 LTFP.

Figure 2: Trends in Council A's operating income



This might suggest the potential for affordability risk to increase over the 2021-22 LTFP, in the absence of evidence to the contrary. Such evidence might relate to the extent the following sources support (or otherwise) the proposition that the continuing rises in the 2021-22 LTFP are affordable for Council A's ratepayers.

- Council A's position on the SEIFA Index of Economic Resources. This measures Council A's position relative to other councils in South Australia. Based on ranking from the most to the least advantaged, it provides an independent proxy of the Council's ratepayers ability to consistently absorb above CPI increases. The higher Council A's ranking, the more socio-economically advantaged its ratepayers are from a financial basis, so the greater the likelihood its ratepayers can manage such increases.
- Information from Council A outlining how it assesses and accounts for its ratepayers' ability to finance its plans, and why it considers the increases proposed in the 2021-22 LTFP affordable for its ratepayers.
- Information from Council A regarding its approach to consulting its ratepayers on its LTFP and IAMP, and how the implications for rates and charges are communicated.

Based on this information and the empirical analysis, the Commission can make an assessment regarding the extent to which it considers affordability risk a concern that it should account for in its advice.

Regarding total operating expenses, this relates to questions 8 to 11 in Table 5. As seen in Figure 3 below, trends in total operating expenses exhibit similar properties to total operating income. The main difference being that the trend for operating expenses over the 2021-22 LTFP is more in-line with historical trends, when compared to those for operating income.

Figure 3: Trends in Council A's operating expenses

The three main factors driving operating expenses are the costs of employees, materials and contracts, and depreciation. All exhibit growth over the 2021-22 LTFP. In part, the increases in materials and contractors and in depreciation might be attributed to the increasing asset stock (considered further below in relation to the asset renewal funding ratio).

With operating expenses projected to continue to rise, understanding Councils A's approach to cost control is highly relevant. Information on that and how Council A measures its performance relative to its plans, can be obtained via Council A's 2021-22 LTFP and any other evidence it can or chooses to provide demonstrating the cost control performance measures that it has adopted and implemented.

Based on that information and its empirical analysis, the Commission can make an assessment regarding the extent to which it considers cost control risk a concern that it should address in its advice.

Overall, this analytical framework provides an evidence-based approach to drawing out the extent to which affordability and cost control risk may be a concern, in the context of the underlying analysis of what is driving the operating surplus ratio. If risks are identified, how these are being managed/mitigated is highly relevant to the advice provided by the Commission.

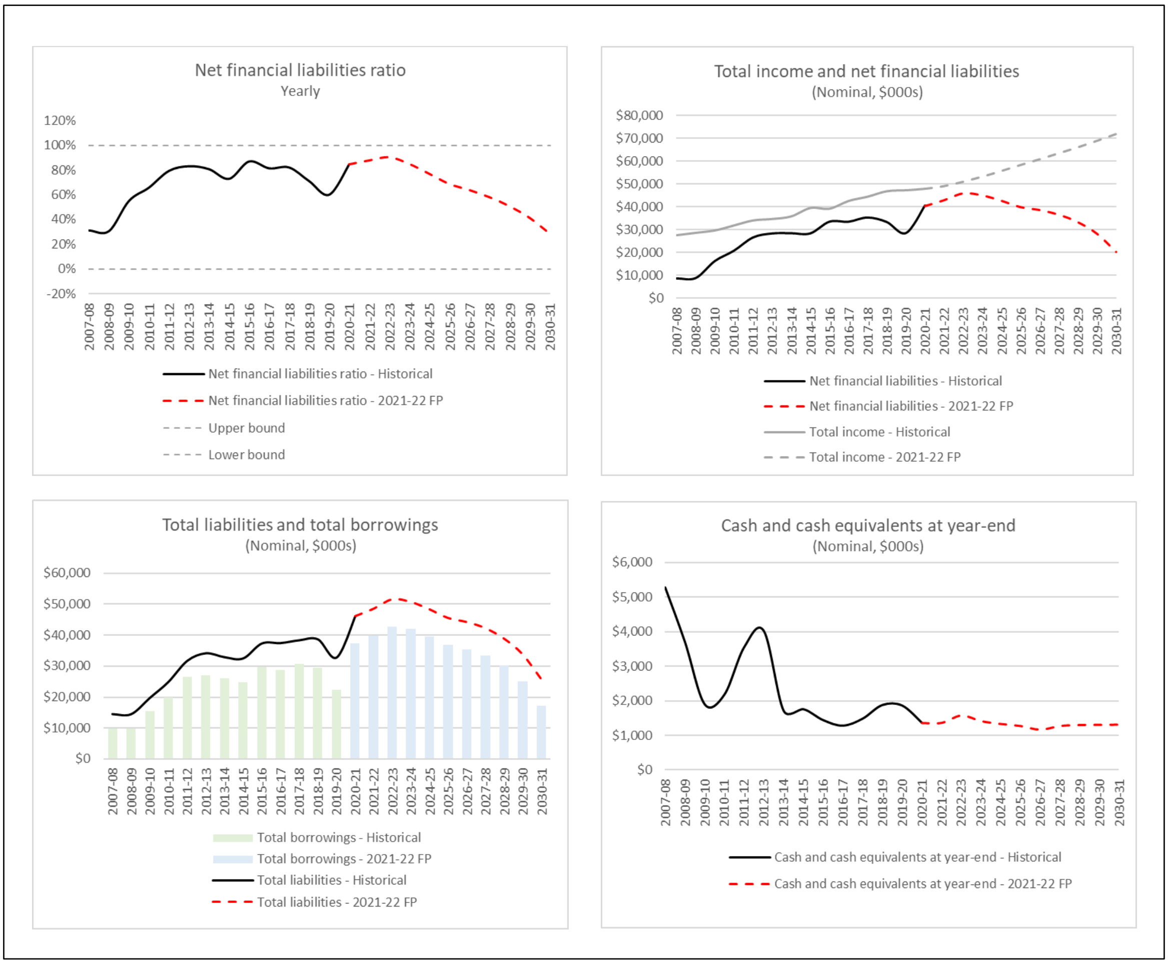
4.4.4.2 Net financial liabilities ratio

The net financial liabilities ratio is defined as:

Net financial liabilities ÷ Total operating income

This ratio measures the extent to which a council's total operating income covers, or otherwise, its net financial liabilities. Figure 4 below applies a similar analytical framework to that adopted for the operating surplus ratio, but for the relevant variables and relevant LGA-defined lower and upper bound (see Table 3). It can be used to consider questions 12 to 17 from Table 5.

Figure 4: Trends in Council A’s net financial liabilities ratio



Over Council A’s 2021-22 LTFP, its net financial liabilities ratio is expected to decline significantly after rising in the period from 2007-08 to 2019-20. The decline in the ratio is driven by the complementary projections of increasing total operating income (see operating surplus ratio analysis) and reducing net financial liabilities. Net financial liabilities are expected to decline over the 2021-22 LTFP, largely because of lower borrowings. Council A’s borrowings are expected to peak around 2022-23 and 2023-24 and then fall off steeply. This occurs as accumulated borrowings are paid back.

To pay back borrowings over the 2021-22 LTFP, Council A can either draw-down its cash and cash-equivalent reserves, use all or some of the operating surplus it is projecting to accrue or a combination thereof. As can be seen from Figure 4, Council A does not forecast drawing down existing reserves over the 2021-22 LTFP. So, in order to pay off debt at the speed projected, Council A would need to use some of the operating surplus it proposes to generate. In part, this assists in explaining the trends seen in the operating surplus ratio, where total operating income is projected to rise at a faster rate than total operating expenses.

The lower level of borrowing projected might appear to reduce Council A’s financial sustainability risk; however, borrowing levels are being reduced rapidly and appear to be financed through use of surplus operating income projected over the 2021-22 LTFP. Noting the analysis of the operating surplus ratio (as explained above), it may be the case that the lowering of borrowings over the 2021-22 LTFP at the proposed pace results in greater potential for affordability risk, rather than mitigating or reducing overall risk. Furthermore, a question arises as to whether or not Council A might draw down its borrowings at a slower rate and be able to hold more debt.

The above observations are based solely on the empirical analysis of the interaction of the operating surplus ratio and the net financial liabilities ratio. Further information may be obtained from Council A's 2021-22 LTFP documentation, its CEO's financial sustainability report, the council's Audit Committee's input into the most recent LTFP and IAMP reviews and through discussions with Council A. In addition, the Commission may seek advice from the LGFA regarding Council A's capacity to carry debt.

Based on that information and the empirical analysis, the Commission can assess the implications for Councils A's financial sustainability risk, while accounting for its relationship with cost control and affordability risk. If risks are identified, how these are being managed/mitigated will be highly relevant to the Commission's advice.

4.4.4.3 Asset renewal funding ratio

Since 2013, the asset renewal funding ratio is defined as:

Asset renewal/replacement expenditure ÷ IAMP renewal/replacement expenditure

Prior to that time, the definition was:

Net asset renewal/replacement expenditure[26] *÷ Depreciation*

Unlike the previous two ratios, this ratio links directly to the IAMP of a council, through the asset renewal expenditure identified within the IAMP. This is an important link in ensuring the asset stock can provide ratepayers with services of an appropriate standard. Further, the credibility and robustness of the IAMP relates to a council having processes and procedures in place to have an 'on-the-ground' understanding of the condition of its asset stock that links directly to its IAMP, in terms of costs and outputs expected from renewal and replacement actions.

When considering this ratio, it is relevant and appropriate to have regard to the risks associated with postponing asset renewal/replacement expenditure. Postponement may potentially reduce the short- to medium-term renewal expenditure within the IAMP, which may lead to service sustainability problems and greater long-term costs. It is ratepayers that generally bear this risk if it arises, through deteriorating services in the short- to medium-term and in covering any associated additional costs through general rates and service charges in the longer term.

Given this, the Commission considers that the analysis of the asset renewal funding ratio should encompass additional matters as explained below, alongside analysis based on the current definition of the asset renewal funding ratio. This is because it assists in developing an understanding of a council's long-term financial sustainability risk profile and how this is being managed/mitigated.

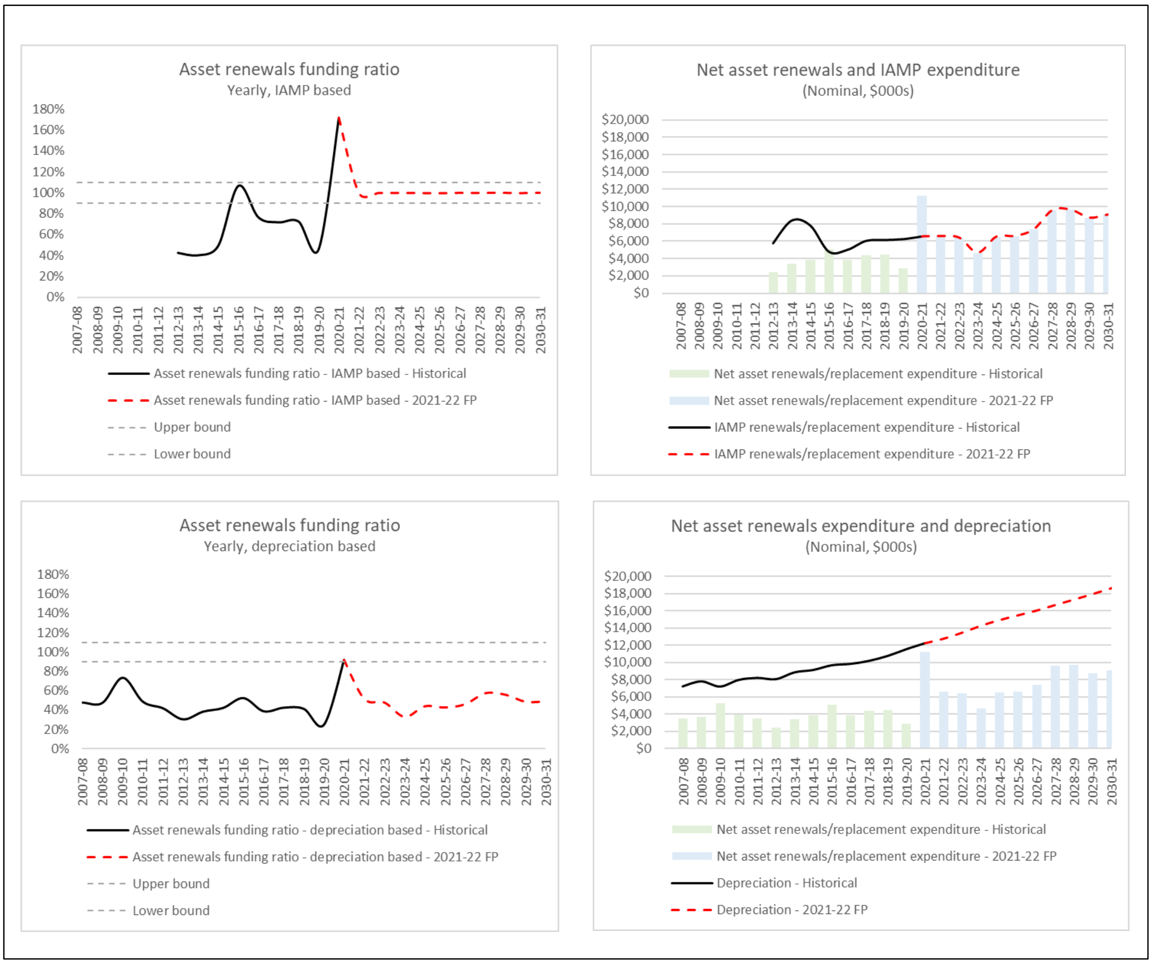
- The depreciation-based definition for this ratio: Depreciation provides a proxy for the yearly allowance for renewal/replacement expenditure, based upon the asset lives assumed. If there is a significant misalignment between the yearly depreciation allowance and IAMP renewal/replacement expenditure then the reasons for this would need to be understood, as would any implications.
- Analysis of the capital expenditure split between renewal/replacement of existing assets and expenditure on new/upgraded assets: Expenditure on new/upgraded assets will generally increase the size (financially and physically) of the asset stock that needs to be maintained and renewed/replaced into the future. This represents a potential future liability that the council's ratepayers will be expected to cover. This is regardless of the extent to which the initial new/upgrade capital expenditure was financed through state or federal grants.

[26] The earlier definition reduced the *asset renewal/replacement expenditure* by netting off any proceeds realised from the *sale of replaced assets*.

- **Analysis of the value of the overall asset stock on a per rateable property basis**: If the value of the asset stock increases through time on this basis, the growth in the number of rateable properties has lagged that of the value of the overall asset stock. This will have implications for future rates and charges, given no presence of economies of scale.

The above allows the key questions 18 to 29 in Table 5 to be considered. Applying this approach to Council A, the analytical framework results in the trends for the asset renewal funding ratio as shown in Figure 5.

Figure 5: Trends in Council A's asset renewal funding ratio



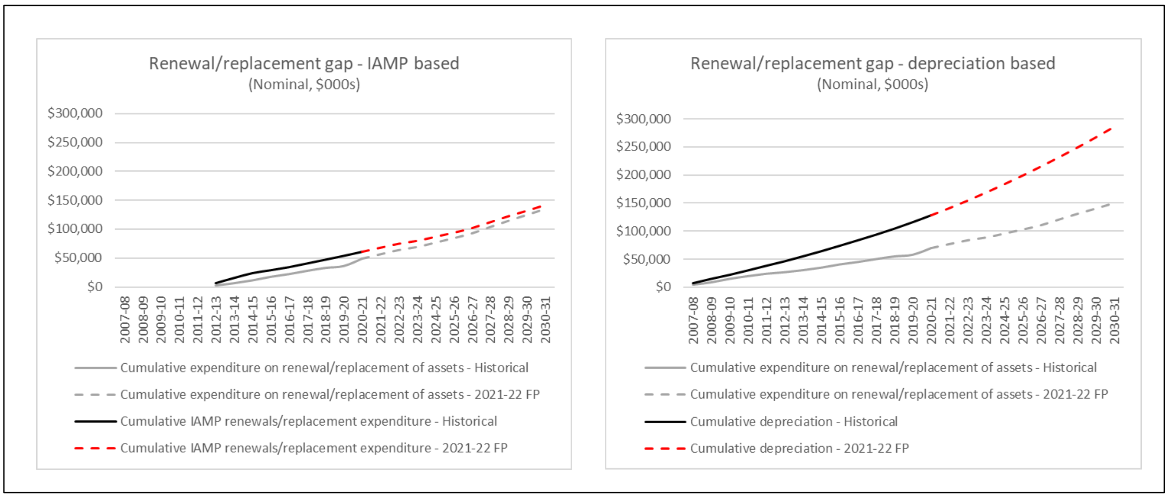
This indicates the following:

- There is misalignment between the yearly trends in the asset renewal funding ratio based upon using depreciation or the IAMP renewal/replacement expenditure. When adopting depreciation, the ratio is consistently below the LGA minimum target, both historically and in the 2021-22 LTFP. By way of contrast, when based on IAMP renewal expenditure, while historically the ratio has been below the LGA minimum target, it is projected to be within or above the upper bound of the target range in the 2021-22 LTFP.

- Yearly IAMP renewal expenditure over the 2021-22 LTFP is projected to be higher than has ever been achieved historically. Despite this, it is below the depreciation schedules in the 2021-22 LTFP.

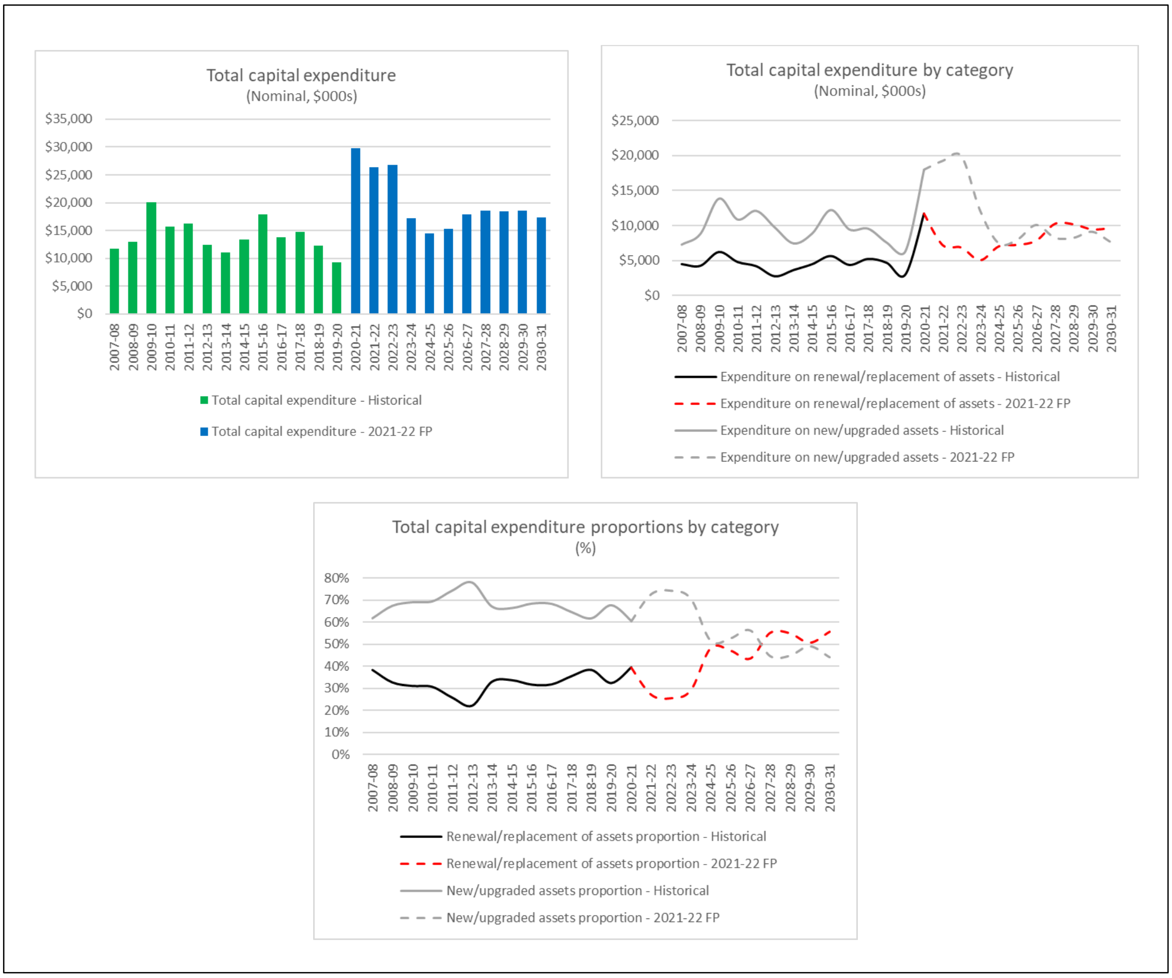
Further, on a depreciation basis, Figure 6 below suggests that the cumulative renewal/replacement gap continues to widen over the 2021-22 LTFP. This, in turn, suggests that there is a significant underspend on the renewal/replacement of the asset stock. However, on an IAMP renewal/replacement expenditure basis this would not be the case.

Figure 6: Trends in Council A's cumulative renewal/replacement expenditure gap



Overall, these trends suggest there is a need to understand the relationship of Council A's IAMP renewal/replacement expenditure with respect to the 'on-the-ground' condition of the assets and the depreciation schedules. This can be assessed through information provided by Council A in its IAMP, and through discussions with Council A, particularly in relation to how the IAMP has been developed. The outcome of this would be relevant to the Commission's consideration of financial and service sustainability risk and the advice developed.

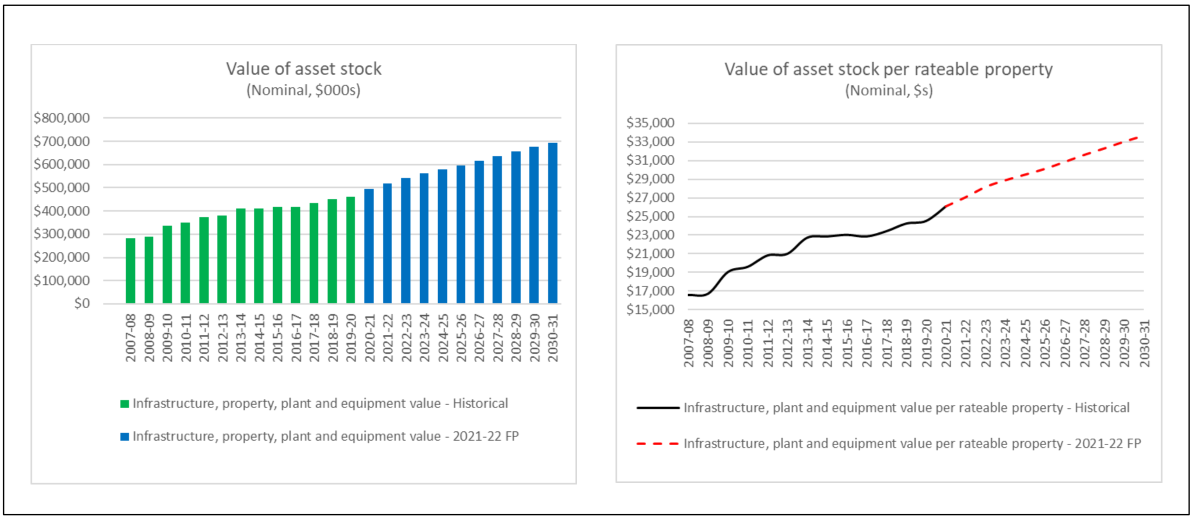
Figure 7: Trends in Council A's capital expenditure



In addition, Council A's capital expenditure trends are provided in Figure 7 above. Historically, Council A's capital expenditure has focused more on new/upgraded assets rather than the renewal/replacement of assets. This trend continues until 2022-23, with capital expenditure on new/upgraded assets projected to be particularly strong in the 2020-21 to 2022-23 period. Thereafter, total capital expenditure becomes more aligned with historical levels, but with the renewal/replacement capital expenditure proportion being at its highest level.

Council A's focus has been predominately on new/upgraded assets. This is resulting in Council A's asset stock value per rateable property maintaining a rising trend over the period of the 2021-22 LTFP, as shown in Figure 8. This suggests that Council A's ratepayers' future liability for financing the renewal/replacement and maintenance of this larger asset stock will go beyond the timeline of the 2021-22 LTFP. This may also have implications for financial and service sustainability, cost control and affordability risk.

Figure 8: Trends in Council A's asset stock value



4.4.4.4 Summary

Through this analytical framework, potential risks to financial and service sustainability, cost control and affordability can be considered, including any linkages between them. It can also account for the relationship between on-the-ground asset condition, how this is transferred to the IAMP and how this links to the LTFP. It combines both quantitative and qualitative information and can be presented through the use of charts to anchor the analysis and advice – and is replicable across councils and by councils.

4.4.5 Comparison of historical trends to any revised SMP

The above analytical framework can be replicated for any council's proposed 2022-23 LTFP and IAMP and allows any revisions to be considered relative to the historical context. It also allows any material changes to be identified relative to the existing SMP, and for the impact of those changes to be tracked through to the operating surplus, net financial liabilities, and asset renewal funding ratios. Such a comparison would use the following information:

Table 7: Information requirements – revised SMP

Time period	Information available
Historical actuals 2007-08 to 2020-21	▶ Annual audited financial statements based upon the model financial statements. ▶ The operating surplus, net financial liabilities, and asset renewal funding ratios derived from the audited financial statements and the IAMP. ▶ The actual number of rateable properties.
Historical estimates 2021-22	▶ Annual financial statements based upon the model financial statements. ▶ The operating surplus, net financial liabilities, and asset renewal funding ratios derived from the financial statements and the IAMP. ▶ An estimate of the number of rateable properties
Forward forecasts 2022-23 to 2031-32	▶ Annual financial statements based upon the model financial statements. ▶ The operating surplus, net financial liabilities, and asset renewal funding ratios derived from the financial statements and the IAMP. ▶ Forecasts of the number of rateable properties

Applying the analytical framework to any revised SMP proposed by a council shifts the timeline forward by a year. This means that the estimates for 2020-21 in the 2021-22 LTFP can be compared with outturn results for that year. This starts the process of assessing the extent to which a council carries out its plans and, if it does not, understanding the reasons why not.

The Commission acknowledges that the proposed analytical framework requires each council to structure any expected revisions to its LTFP in a manner equivalent to the model financial statements, to ensure consistency across comparisons.[27]

So that councils have a transparent understanding of what is required, the Commission has developed an initial set of guidelines and an Excel-based proforma template for councils to adopt. This is discussed further in Chapter 5, with the initial guidelines and the Excel-based proforma template published alongside this consultation document.

The Commission also notes that, unless the Commission requires information earlier, a council is required to provide it no later than 30 September of its Relevant Financial Year. This means that a council will need to be able to identify, articulate and explain any revisions that it considers material by no later than this date. However, the Commission also has the ability to seek information earlier than that date, should the need arise. This is in the nature of a 'reserve power' and, while the Commission does not presently anticipate when such a need might arise, it is important to note that the ability to seek early information exists under the scheme.

Given the long-term nature of the planning process, the Commission expects councils to be capable of readily providing such information, given it is based on a council's own long-term financial and service sustainability strategy rather than on short-term operational and financial management concerns.

[27] Noting that the IAMP is a free form document.

Consultation question

4.9 Do stakeholders consider this an appropriate approach to the analytical framework to assess the key questions in Table 5?

- If not, why not? How should the approach be amended and why?

4.5 Content of the advice and its publication

Methodological Proposal 4:

Any advice will be based upon the outcomes of implementing the analytical framework and have regard to the circumstances of each council. The advice will, for each council in its Relevant Financial Year, cover:

- the extent to which the Commission considers, or otherwise, the appropriateness of a council's LTFP and IAMP, any material amendments to it, and the proposed path for general rates and other revenue sources
- the long-term financial and service sustainability, cost control and affordability risk considered to exist, based on implementing the analytical framework, and
- any other factors the Commission considers relevant.

In addition, the advice may provide the Commission's view on the potential actions a Council might take to mitigate/manage any identified risk.

The advice will be published in full on the Commission's website. Each council will publish the advice in full and any response it has to that advice, in both its draft and adopted annual business plans, until the next Relevant Financial Year for that council.

4.5.1 Content of the advice

The Commission's advice will address the matters required under the scheme by reference to historical performance and financial trends, drawing on information which councils are already required to have in place under the *Local Government Act 1999*. The advice will set out that trend information, so as to give context to councils' forward-looking plans, and will identify areas where attention or action may be required to better serve ratepayers' long-term interests. Importantly, the advice to each council will focus on its own trends and plans. The advice will not provide inter-council comparisons.

The Commission does not presently anticipate that the advice will require councils to take specific action, nor will it approve (or otherwise) specific expenditure, programs or projects: those are matters for councils' own decision-making processes.

The development of the Commission's advice will be based upon the evidence available through applying the analytical framework. For each council, the advice will cover the factors outlined in Methodological Proposal 4.

The quantitative analysis (as shown in the example of fictional Council A above) will enable the advice to provide an overarching picture of any potential cost control, affordability, and sustainability risk, based upon actual performance and forecast performance. Further, the advice can utilise available qualitative information regarding a council's SMP, its current CEO sustainability assessment and its approach to setting rates to identify how any risks identified in the quantitative assessment are managed/mitigated, creating opportunity for further discussions on those matters.

The overall outcome of this analysis and any further discussions should identify the extent to which there are potential issues with the council's approach to managing cost control, affordability, and sustainability risk, which can be noted in the advice.

This, in turn, will allow the advice to reference the extent to which a council's price path for general rates might be appropriate in that council's overall context. For instance, the more that issues identified in the advice are systematic and material, the less likely that the path of general rates might be considered appropriate, and vice-versa.

Finally, the advice and evidence base upon which the advice has been developed, will form part of the evidence base for any subsequent assessment of the council under the scheme.

Consultation question

4.10 Do stakeholders consider this an appropriate approach to developing the content of the advice that the Commission provides to each council?

- If not, why not? How should the approach be amended and why?

4.5.2 Publication of the advice

The Commission proposes that all advice provided should be published in full. This is on the basis a council provides services, subject to limited or no competition, to ratepayers in its region. Ratepayers directly contribute to the financing of those services, generally with no other choice of supplier. Those financial contributions are based directly upon the plans developed and implemented by the council. Given these circumstances, the Commission is of the view that publication of the advice in full is in the public interest and does not constitute commercially sensitive information. The Commission also notes that, under the legal framework, the council can, if it chooses to, respond to the advice provided by the Commission, with that response also being published.

Consultation question

4.11 Do stakeholders consider this an appropriate approach to adopt for the publication of the advice, given the legal framework?

- If not, why not? How should the approach be amended and why?

4.6 Alignment with the legal framework and overarching scheme principles

4.6.1 Alignment with the legal framework

The legal framework does not prescribe how the Commission should develop its advice, only what needs to be covered (the Relevant Matters), and the factors to which it is to have regard in doing so: the council's planning and implementation of LTFPs and IAMPs, along with the circumstances of the council.

The planning and implementing of LTFPs and IAMPs is central to the Commission's proposed analytical approach. It accounts for each council's circumstances in an evidenced-based manner, through the assessment of historical trends. It considers these factors in the context of long-term financial and service sustainability, cost control and affordability, thereby aligning with the *Local Government Act 1999* and the nationally agreed definition of financial sustainability. Further, the analytical approach and advice specifically addresses the Relevant Matters included within the legal framework.

Consultation question

4.12 Do stakeholders consider the analytical framework aligned with the legal framework?

- If not, why not? How should the approach be amended and why?

4.6.2 Alignment with the overarching principles for the analytical framework

The Commission considers that the proposed analytical framework meets the underlying principles outlined in section 4.2, for the following reasons.

Table 8: Alignment with the overarching principles

Principle	Reasons for alignment
Principle 1: Monitoring, not regulating *The scheme relates to monitoring, not economic regulation. As such, the design focusses on providing evidence-based and useful advice. The objective being, through time, to develop a record of a council's performance, relative to its long-term planning, and its response to advice, as the basis for changing behaviours and outcomes over time. The scheme does not provide the Commission with powers to enforce compliance measures, set service standards or regulate any council's rates. In those respects, it differs from other States' council rates regulation frameworks, such as those in Victoria and New South Wales.*	The analytical framework does not impose any regulatory measures on a council. Rather, it provides a mechanism of monitoring how a council's planning and implementation processes evolve, how a council performs relative to its own plans over time, and how a council responds to the advice provided regarding its plans and the funding thereof.
Principle 2: Long-term planning focus *While councils can provide a diverse range of services, they are generally delivered through infrastructure and operations that require long-term planning. As such, in the absence of significant shocks outside of a council's control, its long-term plans would not be expected to exhibit significant variation through time (replacement/renewal expenditure should not materially vary due to political cycles, or short-term transient operational or financial concerns).*	The analytical framework adopts a long-term time horizon, comprising historical trends since 2007-08 and the 10-year forward-looking LTFP and IAMP for a given council. This reflects both how a council has arrived at a particular point and its future expectations. Through this, any material amendments are considered based upon the existing and forecast circumstances of the council.
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.*	The analytical framework focuses on using only the amount of information necessary to inform the advice. It does this through seeking to understand the movements in the three ratios at a reasonable level of disaggregation, while also accounting for the underlying planning and implementation processes for a council's LTFP and IAMP.
Principle 4: Simplicity *The scheme will be as simple as it practically can be and be capable of being applied across the diverse range of councils within South Australia.*	The analytical framework is based upon requirements and guidelines that already exist and apply to councils across South Australia. This allows it to be practically applied across the diverse range of councils.
Principle 5: Leveraging existing information and evidence	In addition to the analytical framework being based upon requirements and guidelines that already exist, it is also based on information that is readily available. This is because the information is either historical in nature, relates to the LTFP and IAMP process, or is publicly available. The extent to which common information gaps exist across councils that are relevant to the analytical

Principle	Reasons for alignment
The Local Government Association (LGA) collects data and provides guidance material regarding financial and service sustainability. As such, a significant amount of underlying information and a standard accounting framework exists - this will underpin the analytical framework. *In accordance with the legislative framework, if demonstrable gaps in information become apparent that are of relevance to the operation of the scheme, it may be necessary to collect further information in relation to this.*	framework, will become apparent through applying it across councils.
Principle 6: Consistency of application *The scheme will be applied consistently across councils in terms of the underlying processes and analytical framework. Advice across councils will only be similar if all the inputs into the analytical framework (both quantitative and qualitative) result in similar advice being warranted.*	Because the analytical framework is based upon existing requirements and guidelines that already apply to South Australian councils, it can be consistently applied across councils. Also, the extent to which a council has, or has not, been complying with the existing requirements and guidelines can be assessed.
Principle 7: Transparent process and approach *The implementation of the scheme requires transparency in processes and approach. Each council will be provided with the information and calculations upon which the advice relating to it has been based.*	The analytical framework is based upon existing requirements and guidelines that already apply to South Australian councils. Also, the information used within the analytical framework is either based upon sources that are generally accessible to a council, or directly provided by the council to the Commission. So, on the basis the Commission provides, to each council on a consistent basis, the information it has used and any calculations pertaining to that information, the analytical framework represents a transparent process and approach. The potential exception is any information or discussions with the LGFA regarding a council's ability to carry debt. In this context, the Commission understands that a council can also discuss this with the LGFA at any time.

Consultation question

4.13 Do stakeholders consider the analytical framework to be aligned with the overarching principles for its development?

- If not, why not?

5 Guidelines and information provision

5.1 Introduction

The legislative framework gives the Commission discretion as to whether or not it will make guidelines regarding councils' information provision obligations. It does not prescribe the content of any guidelines nor does it constrain the Commission's requirements regarding the structure and form of any information it requires from councils to operate the scheme (provided that the information sought must be reasonably required for the performance of the Commission's functions under the Act).

5.2 Guidelines and information provision

The Commission considers putting in place guidelines and a proforma Excel template[28] to be an appropriate element of the scheme, as it provides councils with transparency regarding the minimum level of information they are required to provide and how they are required to provide it. In turn, this is likely to reduce the number of enquiries while also providing a clearer framework for dealing with enquiries that do arise.

The initial guidelines and proforma Excel template are provided alongside this consultation document. They should be considered in conjunction with this chapter and complement the information requirements outlined in Methodological Proposal 3 in Chapter 4.

The initial guidelines and proforma Excel template are both based on a Relevant Financial Year of 2022-23. The Commission notes that, for each Relevant Financial Year, a revised set of guidelines and proforma Excel template will need to be published, to account for the roll-over of a financial year. The Commission is proposing that these be published no later than the start of each Relevant Financial Year.

The structure of the proforma Excel template uses the model financial statements discussed in section 4.3.3 and outlined in Appendix 2, as the structural basis for the time series information required. It is split into the following sections (tabs in the Excel spreadsheet).

- Historical & SMP 2021-22 (A): This reflects the position for the 2021-22 LTFP and existing IAMP at that time. It provides a time series of actual historical data for 2007-08 to 2019-20 and forecast data for 2020-21 to 2030-31.
- Historical & SMP 2022-23 (B): This reflects the council's proposed position for the 2022-23 LTFP and existing IAMP. It provides a time series of actual historical data for 2007-08 to 2020-21 and forecast data for 2021-22 to 2031-32.

Variances can be calculated between the two sets of time series data. This provides a quantitative approach to identifying the extent to which revisions to the financial plan and IAMP might be considered material. It also provides a way of tracking variances through to their impact on the operating surplus, net financial liabilities and the asset renewal funding ratios.

[28] While an excel template will be used initially, it is intended to develop an automated data collection system.

Consultation questions

5.1 Do stakeholders consider publishing a revised set of guidelines and proforma Excel template no later than the start of each the Relevant Financial Year appropriate?

- If not, why not? How should the approach be amended and why?

5.3 Timing of information provision

Information provision for the first cycle of the scheme differs from any subsequent cycle, as there is the additional (one-off) need to gain information from 2007-08 onwards. Overall, the Commission is proposing the following timing for information provision over the four-year Prescribed Period for the first cycle of the scheme.

Table 9: Timing of information provision

Relevant Financial Year	Existing information	Revised information
2022-23	1 August 2022	30 September 2022
2023-24	1 August 2023	30 September 2023 (Unless the Commission specifies an earlier date within 2023-24. It would provide notice of this no later than 28 February 2023.)
2024-25	1 August 2024	30 September 2024 (Unless the Commission specifies an earlier date within 2024-25. It would provide notice of this no later than 28 February 2024.)
2025-26	1 August 2025	30 September 2025 (Unless the Commission specifies an earlier date within 2025-26. It would provide notice of this no later than 28 February 2025.)

Where existing information and revised information is the following:

Table 10: Definition of existing and revised information

Relevant Financial Year	Existing information	Revised information
2022-23	▶ Completed proforma Excel template data tab '*Historical & SMP 2021-22 (A)*' ▶ 2021-22 LTFP and current IAMP document. ▶ 2021-22 CEO financial sustainability report. ▶ Audit Committee review of 2021-22 LTFP and current IAMP. ▶ Information on approach to assessing performance relative to LTFPs and IAMPs. ▶ Information on approach to assessing and accounting for residents' ability to finance plans. ▶ Information on consultation process for LTFPs and IAMPs	▶ Completed proforma Excel template tab '*Historical & SMP 2022-23 (B)*' ▶ Draft 2022-23 LTFP and IAMP document. ▶ Reasons for any material variations identified in the draft 2022-23 LTFP and IAMPs versus 2021-22 documents. ▶ Any other material considered relevant.
2023-24	▶ Completed proforma Excel template data tab '*Historical & SMP 2022-23 (A)*' ▶ 2022-23 LTFP and current IAMP document. ▶ 2022-23 CEO financial sustainability report. ▶ Audit Committee review of 2022-23 LTFP and current IAMP. ▶ Information on approach to assessing performance relative to LTFPs and IAMPs. ▶ Information on approach to assessing and accounting for residents' ability to finance plans. ▶ Information on consultation process for LTFPs and IAMPs	▶ Completed proforma Excel template tab '*Historical & SMP 2023-24 (B)*' ▶ Draft 2023-24 LTFP and IAMP document. ▶ Reasons for any material variations identified in the draft 2023-24 LTFP and IAMP versus 2022-23 documents. ▶ Any other material considered relevant.
2024-25	▶ Completed proforma Excel template data tab '*Historical & SMP 2023-24 (A)*' ▶ 2023-24 LTFP and current IAMP document.	▶ Completed proforma Excel template tab '*Historical & SMP 2024-25 (B)*' ▶ Draft 2024-25 LTFP and IAMP document.

Relevant Financial Year	Existing information	Revised information
	▶ 2023-24 CEO financial sustainability report. ▶ Audit Committee review of 2023-24 LTFP and current IAMP. ▶ Information on approach to assessing performance relative to LTFPs and IAMPs. ▶ Information on approach to assessing and accounting for residents' ability to finance plans. ▶ Information on consultation process for LTFPs and IAMPs	▶ Reasons for any material variations identified in the draft 2024-25 LTFP and IAMP versus 2023-24 documents. ▶ Any other material considered relevant.
2025-26	▶ Completed proforma Excel template data tab '*Historical & SMP 2024-25 (A)*' ▶ 2024-25 LTFP and current IAMP document. ▶ 2024-25 CEO financial sustainability report. ▶ Audit Committee review of 2024-25 LTFP and current IAMP. ▶ Information on approach to assessing performance relative to LTFPs and IAMPs. ▶ Information on approach to assessing and accounting for residents' ability to finance plans. ▶ Information on consultation process for LTFPs and IAMPs	▶ Completed proforma Excel template tab '*Historical & SMP 2025-26 (B)*' ▶ Draft 2025-26 LTFP and IAMP document. ▶ Reasons for any material variations identified in the 2025-26 LTFP and IAMP versus 2024-25 documents. ▶ Any other material considered relevant.

This is for the following reasons:

- The Commission considers it relatively straightforward for a council to provide information that should exist prior to its Relevant Financial Year. Obtaining this information at the start of August in any Relevant Financial Year allows the Commission to progress the assessment process two months before 30 September of that year. This means that the Commission can develop a greater understanding of each council's historical context more effectively, which is advantageous to both councils and the Commission.

- The Commission will endeavour to adopt 30 September of the Relevant Financial Year as the deadline for councils to provide the revised information in Table 10 above. However, unforeseen circumstances may result in the need for councils to provide this information earlier.[29] The approach proposed seeks to allow the Commission some flexibility in managing future events. In doing so, the Commission is to provide notice four months prior to the start of the Relevant Financial Year of its intention to adopt an earlier date than 30 September and specify the date. The Commission considers that this appropriately balances the need to provide flexibility, with the councils' ability to develop any revised information prior to 30 September of the Relevant Financial Year.

Consultation question

5.2 Do stakeholders consider the proposed timing for information provision appropriate?

- If not, why not? How should the approach be amended and why?

[29] Noting that this is a reserve power which can be triggered when merits warrant.

6 Developing and publishing the Schedule of Councils

6.1 Introduction

The Commission will publish a Schedule of Councils for each cycle of the scheme, identifying which councils will go through the scheme in what years within the Prescribed Period for that cycle. The Prescribed Period is currently set at four years and the two main questions regarding the Schedule are: how should it be developed and when should it be published?

6.2 Developing the schedule

The Commission does not intend to consult on the Schedule for the four-year Prescribed Period. The Commission has adopted a representative sample of councils for each year of the Prescribed Period. This ensures that in each year of the Prescribed Period no council group is over or under-represented. The Commission's approach to this is published as part of the Schedule.[30]

The Commission does not consider that there is an inherent advantage for any council with respect to the actual year it goes through the scheme. The Commission is aware that councils going through the scheme in the first year may have less preparation time, relative to councils going through the scheme thereafter. The Commission can account for this in its approach to the advice provided, and in its expectations of councils as the Prescribed Period progresses. It is, however, noted all councils should have at the start of 2022-23, the existing information outlined in Table 10 in Chapter 5, given their obligations under the *Local Government Act (1999*). The Commission's advice will account for this.

6.3 Publishing the schedule

The Commission is required to publish the Schedule and considers it appropriate that this occurs prior to the start of 2022-23, which is the first year of the Prescribed Period. Further, as the Schedule does not form part of this consultation, the Commission intends to publish it separately to this document.

However, the Commission does acknowledge that councils undertaking the scheme in 2022-23 may have sharper focus on this consultation, than those operating under a more extended lead time. Given this, the Commission has published the Schedule at the same time, but separate to, this consultation document being published.

[30] The Schedule of Councils is available at: https://www.escosa.sa.gov.au/ArticleDocuments/21844/20220331-I-LocalGovernmentRatesOversightScheme-ScheduleofCouncils.pdf.aspx?Embed=Y

7 Cost recovery

7.1 Introduction

The legislative framework provides for the Commission to recover from a council (as a statutory debt due and payable by the council), the costs reasonably incurred in performing its functions under the scheme. It does not prescribe what costs would be considered reasonable for the Commission to recover or how it should undertake this. These are the two issues discussed in this chapter.

7.2 Reasonable costs

The Commission's indicative total cost per council, over the first cycle of the scheme (which is four years) is $52,133, based on Commission staff effort per council being the same, irrespective of council size or location. This is for the reasons outlined below.

The Commission considers the reasonable costs in performing its functions under the scheme cover:

- Set-up and development costs: These relate, but need not be limited to, the upfront and ongoing work taking place in 2021-22 and 2022-23 to develop the analytical framework used and the technological infrastructure to support it.
- Operational costs: These relate, but need to be limited to, the yearly costs of implementing the scheme. These primarily comprise staff costs.[31]

Implementing the scheme is a continuous process throughout any financial year. Each financial year comprises the work undertaken to provide advice to a group of councils for that year, alongside preparatory work for a subsequent set of councils in the forthcoming financial year. Further, delivering the proposed analytical framework and the scheme in a manner envisaged in the legislative reforms requires skilled resources. This assures council ratepayers, councils and the South Australian Government that the advice provided is based upon an appropriate level of expertise.

The actual costs involved in implementing the scheme will become clearer after the completion of the first cycle of its implementation. This is because the costs are, in part, dependent upon all councils' approach to the scheme. This, in turn, depends on how councils engage with the scheme, in terms of fulfilling their obligations in a timely manner and the way they interact with Commission staff throughout the process, such as with respect to responding to queries and undertaking meetings (if required) to discuss the information provided by the council.

Given this, the Commission can only provide the indicative costs associated with implementing the scheme, the actual costs over the first cycle maybe materially higher or lower than this. If the Commission finds that the actual costs for the initial cycle vary significantly from the indicative costs outlined in Table 11 below, it proposes that the implications of this be considered in the context of the second cycle of the scheme.

[31] This relates to the Commission's costs including direct staff, support staff and other operating expenses.

Table 11: Commission's indicative costs for the first cycle of the scheme

2021-22 prices	2022-23	2023-24	2024-25	2025-26
Set-up and development costs	$157,667	$157,667	$157,667	
Operational costs	$768,000	$768,000	$768,000	$768,000
Total yearly costs	**$925,667**	**$925,667**	**$925,667**	**$768,000**
Total yearly cost per council	**$13,613**	**$13,613**	**$13,613**	**$11,294**
Total cost per council				**$52,133**

The indicative total cost per council, over the first cycle of the scheme is, therefore, $52,133.

The 2022-23 set-up and development costs, and operational costs have been financed by an appropriation from the State budget. These amounts will need to be refunded by councils across the first cycle. This has allowed the Commission to start work on the scheme prior to it being implemented in 2022-23. It also allows the cost recovery process from councils to take place in a more balanced manner as a debt due.

While the set-up and development costs are largely up-front costs, the Commission is proposing to allocate recovery of those in equal proportion over 2022-23 to 2024-25, to aid in the smoothing of costs across years. The Commission is also proposing that, for medium-term budgeting purposes, the indicative operational costs for 2023-24 to 2025-26 will be set at the 2022-23 level.

The Commission notes all these costs are in 2021-22 prices. The Commission proposes to consider its approach to accounting for its costs as it gains practical experience in implementing the scheme.

Consultation question

7.1 Do stakeholders agree with the Commission's approach to allocating its projected indicative costs across the first cycle of the scheme?

- If not, why not? How should the approach be amended and why?

7.2 Do stakeholders agree with the Commission's approach to addressing any material difference between its actual costs and its projected indicative costs?

- If not, why not? How should the approach be amended and why?

7.3 Cost recovery

The following questions are relevant to the consideration of cost recovery:

- Should councils be billed directly or via the LGA?
- When should councils be billed and with what frequency?
- How should the costs be allocated between councils?

7.3.1 Should councils be billed directly or via the LGA?

The Commission and the LGA have consulted on this. It may be considered beneficial by councils that each year the Commission bill the LGA the Commission's yearly total cost, the LGA pays this on behalf of councils, with the LGA splitting the costs between councils on a basis agreed between the LGA and the councils. While ultimately a matter for councils to agree with the LGA, this may be advantageous as it reduces transaction costs relative to managing a billing process for 68 councils separately. It may also provide the LGA and councils with greater control on how costs will be allocated between councils - albeit that would be a matter of separate agreement between those parties.

Consultation question

7.3 Do stakeholders agree that the Commission should bill the LGA the total yearly cost associated with the scheme, noting that any such scheme would require unanimous agreement between the LGA and member councils covering at least the first four-year cycle?

- If not, why not?

7.3.2 When should councils be billed and with what frequency?

Regardless of whether the Commission bills the LGA for the total yearly cost or each of the 68 councils separately, the Commission proposes that it would bill the relevant party once yearly for the total amount due. This would occur at the end of the first quarter of the financial year and be subject to a one-month period within which to pay the outstanding bill. The reason for this is that billing in instalments through the financial year increases the Commission's transaction costs associated with operating the scheme. This would be passed onto councils. The Commission acknowledges that the LGA and councils might adopt a differing approach to the timing and frequency of billing if the Commission only billed the LGA for the yearly total cost.

Consultation question

7.4 Do stakeholders agree with the Commission's approach to the timing and frequency of billing?

- If not, why not? How should the approach be amended and why?

7.3.3 How should costs be allocated between councils?

If the Commission bills each of the 68 councils separately, it proposes to split the yearly costs equally across all councils for the first cycle of the scheme. This is because it is the Commission's effort per council that drives its costs. Until the completion of the first cycle of the scheme, no evidence is available to indicate that it will not take the same amount of effort per council to implement the new scheme, regardless of a council's size (there is no prior information available on this point).

The Commission notes that the LGA and councils may agree between themselves on a differing approach to the allocation of costs if the Commission only billed the LGA for the total yearly cost (as described above). For example, one based on a proxy for size distribution across the councils.

Consultation question

7.5 If the Commission were to bill each of the 68 councils separately, do stakeholders agree with its proposed approach to allocating the total yearly cost between councils?

- If not, why not? How should the approach be amended and why?

8 Next steps

The critical dates in the process of implementing the scheme, based upon the proposal in this consultation document, are:

Table 12: Next steps

Critical dates	Required outcome
31 March 2022	▶ Schedule for the first cycle of the scheme published. ▶ Initial guidelines and Excel proforma template published. ▶ Consultation period for the Commission's proposals for the framework and approach starts.
27 May 2022	▶ Consultation period for the Commission's proposals for the framework and approach ends.
July 2022	▶ Commission's final framework and approach published.
1 August 2022	▶ Councils with a Relevant Financial Year of 2022-23, as defined by the Schedule published 31 March 2022, to provide **historical** information as per the initial guidelines and Excel proforma template, also published 31 March 2022.
30 September 2022	▶ Councils with a Relevant Financial Year of 2022-23, as defined by the Schedule published 31 March 2022, to provide all other relevant information as per the initial guidelines and Excel proforma template.
28 February 2023	▶ No later than this date, the Commission to publish its advice for councils with a Relevant Financial Year of 2022-23, as defined by the Schedule published 31 March 2022.

The Commission notes that the above timeline proposes that its finalised framework and approach will be published in July 2022. It further notes that this is very close to the proposed deadline for councils with a Relevant Financial Year of 2022-23 to provide the required historical information (1 August 2022). The relevant councils are identified in the published Schedule of Councils.[32]

Given this, the Commission recommends that, if these councils would prefer to start the collation of historical information as soon as practically possible, they adopt the working assumption that the 1 August 2022 date will remain in the Commission's finalised framework and approach, and make use of the published initial guidelines and Excel Proforma template to commence collation of the required historical information.

[32] The schedule of Councils is available at: https://www.escosa.sa.gov.au/ArticleDocuments/21844/20220331-I-LocalGovernmentRatesOversightScheme-ScheduleofCouncils.pdf.aspx?Embed=Y

Appendix 1: Relevant Extracts from the Statutes Amendment (Local Government Review) Act 2021

The *Statutes Amendment (Local Government Review) Act 2021*, 79 – Amendment of section 122 – Strategic management plans, states the following:

(1) Section 122(1a)(a) – delete "for a period of at least 10 years; and" and substitute:

that relates to a period of at least 10 years and includes a funding plan that –

(i) outlines the council's approach to funding services and infrastructure of the council; and

(ii) sets out the council's projected total revenue for the period to which the long-term financial plan relates; and

(iii) outlines the intended sources of that total revenue (such as revenue from rates, grants and other fees and charges); and

(2) Section 122 – after subsection (1b) insert:

(1c) A council must, once in every prescribed period (which must not be less than a period of 3 years), in accordance with a determination of the designated authority, provide information relating to its long-term financial plan and infrastructure and asset management plan to the designated authority in accordance with subsection (1e).

(1d) For the purposes of subsection (1c), the designated authority may determine a schedule relating to each prescribed period that requires different councils to provide information in different financial years of that period (and the financial year in which a particular council is required to provide information according to the schedule is the ***relevant financial year*** for that council).

(1e) A council must, on or before 30 September in the relevant financial year for the council, provide to the designated authority all relevant information on the following matters (the ***relevant matters***) in accordance with guidelines determined by the designated authority (if any):

(a) material amendments made or proposed to be made to the council's long-term financial plan and infrastructure and asset management plan and the council's reasons for those amendments;

(b) revenue sources outlined in the funding plan referred to in subsection (1a)(a);

(c) any other matter prescribed by the regulations.

(1f) Following the provision of information by a council under subsection (1e), the designated authority, on or before 28 February in the relevant financial year for the council –

(a) must provide advice to the council on the appropriateness of the relevant matters in the context of the council's long-term financial plan and infrastructure and asset management plan; and

(b) may, if the designated authority considers it appropriate having regard to the circumstances of a particular council, provide advice in relation to any other aspect of the council's long-term financial plan and infrastructure and asset management plan.

(1g) In providing advice under this section, the designated authority –

(a) must have regard to the following objectives:

(i) the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans;

(ii) the objective of ensuring that the financial contributions proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan are appropriate and any material amendments made or proposed to be made to these plans by the council are appropriate; and

(b) may have regard to any information or matter the designated authority considers relevant (whether or not such information or matter falls within the ambit of subsection (1e)).

(1h) A council must ensure that the advice provided by the designated authority under this section, and any response of the council to that advice, is published in its annual business plan (both the draft and adopted annual business plan) in the relevant financial year and each subsequent financial year (until the next relevant financial year for that council).

(1i) For the purposes of the preceding provisions, the designated authority must publish the following:

(a) advice provided to a council under this section;

(b) the schedule determined under subsection (1d);

(c) any guidelines determined under subsection (1e).

(1j) The designated authority may, by written notice, require a council to give the designated authority, within a time and in a manner stated in the notice (which must be reasonable), information in the council's possession that the designated authority reasonably requires for the performance of the designated authority's functions under this section.

(1k) The designated authority may recover from a council (as a debt due from the council) the costs reasonably incurred by the designated authority in performing its functions under this section in relation to the council.

(3) Section 122 – after subsection (3) insert:

(3a) The regulations may prescribe additional requirements with respect to strategic management plans.

(4) Section 122(4)(a) – delete "as soon as practicable after adopting the council's annual business plan for a particular financial year" and substitute:

on an annual basis

(5) Section 122 – after subsection (4a) insert:

(4b) A report from a chief executive officer under subsection (4a) must –

(a) address any matters required by the Minister; and

(b) be published in a manner and form, and in accordance with any other requirements, determined by the Minister.

(6) Section 122(6) – delete – "adopt a process or processes to ensure that members of the public are given a reasonable opportunity to be involved in" and substitute:

undertake public consultation in relation to

(7) Section 122(7) – delete subsection (7)

(8) Section 122 – after subsection (8) insert:

(9) In this section -

designated authority means –

(a) if a person or body is prescribed by the regulations for the purposes of this definition – that person or body; or

(b) if a person or body is not prescribed under paragraph (a) – the Essential Services Commission established under the *Essential Services Commission Act 2002*.

(10) The Minister must consult with the LGA before regulations are made prescribing a person or body as the designated authority.

Appendix 2: Use of Model Financial Statements Proforma Templates

Overview

The following model financial statements are based on those used by South Australian councils to structure their published accounts. Those compare the results in the accounts for the financial year, to those of the previous financial year. The Commission's analytical framework adopts these categories and uses a similar proforma structure for the Excel proforma template, but covering the period starting 2007-08 and ending in the final year of the relevant LTFP.

Financial statements: Statement of Comprehensive Income

The below reflects the Excel proforma template for Statement of Comprehensive Income, which is based upon the model accounts proforma templates.

Statement of Comprehensive Income	Time series data from 2007-08 to final year of the LTFP	
Income		
Rates		
Statutory charges		
User charges		
Grants, subsidies, and contributions		
Investment income		
Reimbursements		
Other income		
Net gain – equity accounted Council businesses		
Total income		
Rates		
Other revenue		
Total income		
Expenses		
Employee costs		
Materials, contracts, and other expenses		
Depreciation, amortisation, and impairment		
Finance costs		
Net loss – equity accounted Council businesses		
Total expenses		
Operating surplus/(deficit)		

Rates revenue is disaggregated as follows in *Note 2-Income-Rates Revenue* of the proforma financial statements.

Analysis of Rates Revenue (Per Financial Statements Note 2)	Time series data from 2007-08 to final year of the LTFP	
General rates		
General rates		
Less: Mandatory rebates		
Less: Discretionary rebates, remissions, and write-offs		
Total general rates		
Other rates (including service charges)		
Natural resource management levy		
Waste collection		
Water supply		
Community wastewater management systems		
Separate and special rates		
Electricity supply		
Total other rates		
Other charges		
Penalties for late payment		
Legal and other costs recovered		
Total other charges		
Less: Discretionary rebates, remissions, and write-offs		
Total rates revenue		

Finance statements: Statement of Financial Position

The below reflects the Excel proforma template for the Statement of Financial Position, which is based upon the model accounts proforma templates.

Statement of Financial position	Time series data from 2007-08 to final year of the LTFP	
Current assets		
Cash and cash equivalents		
Trade and other receivables		
Other financial assets		
Inventories		
Non-current assets held for sale		
Total current assets		
Non-current assets		
Financial assets		
Equity accounted investments in council businesses		
Investment property		
Infrastructure, property, plant, and equipment		
Other non-current assets		
Total non-current assets		
Total assets		
Current liabilities		
Trade and other payables		
Borrowings		
Provisions		
Other current liabilities		
Liabilities relating to non-current assets held for sale		
Total current liabilities		
Non-current liabilities		
Trade and other payables		
Borrowings		
Provisions		

Statement of Financial position	Time series data from 2007-08 to final year of the LTFP	
Liability – equity accounted council businesses		
Other non-current liabilities		
Total non-current liabilities		
Total liabilities: Trade and other payables		
Total liabilities: Borrowings		
Total liabilities: Provisions		
Total liabilities: Other		
Total liabilities		
Net assets		
Equity		
Accumulated surplus		
Asset revaluation reserve		
Other reserves		
Total equity		

Finance statements: Statement of Cash Flows

The below reflects the Excel proforma template for the Statement of Cash Flows, which is based upon the model accounts proforma templates.

Statement of Cash Flows	Time series data from 2007-08 to final year of the LTFP	
Cash flows from operating activities		
Receipts		
Rates – general and other		
Fees and other charges		
User charges		
Investment receipts		
Grants utilised for operating purposes		
Reimbursements		
Other revenues		
Payments		
Employee costs		
Materials, contracts, and other expenses		
Finance payments		
Net cash provided by (or used in) operating activities		
Cash flows from investing activities		
Receipts		
Amounts specifically for new or upgraded assets		
Sale of replaced assets		
Sale of surplus assets		
Sale of investment property		
Net disposal of investment securities		
Sale of real estate developments		
Repayments of loans by community groups		
Distributions received from equity accounted council businesses		
Payments		
Expenditure on renewal/replacement of assets		
Expenditure on new/upgraded assets		
Purchase of investment property		

Statement of Cash Flows	Time series data from 2007-08 to final year of the LTFP	
Net purchase of investment securities		
Development of real estate for sale		
Loans made to community groups		
Capital contributed to equity accounted council businesses		
Net cash provided by (or used in) investing activities		
Cash flows from financing activities		
Receipts		
Proceeds from borrowings		
Proceeds from aged care facility deposits		
Payments		
Repayment of borrowings		
Repayment of principal portion of lease liabilities		
Repayment of aged care facility deposits		
Net cash provided by (or used in) financing activities		
Net increase/decrease in cash held		
Cash and cash equivalents at beginning of period		
Cash and cash equivalents at end of period		

Appendix 3: SEIFA Indexes

Background

The SEIFA[33] indexes are published by the ABS on a five yearly basis. The latest publication was in March 2018 and was based on information from the 2016 census. The previous publication was in 2013 and was based on information from the 2011 census.

Overview

SEIFA ranks council areas in Australia according to relative socio-economic advantage and disadvantage. The ABS broadly defines relative socio-economic advantage and disadvantage in terms of "*people's access to material and social resources, and their ability to participate in society.*"

SEIFA 2016 and 2011 comprised four indexes, as follows:

- the Index of Relative Socio-economic Disadvantage
- the Index of Relative Socio-economic Advantage and Disadvantage
- the Index of Economic Resources
- the Index of Education and Occupation

Use of the Index of Economic Resources in the rates oversight scheme

The Commission considers the Index of Economic Resources useful, in the context of oversight of council rates. It proposes to use the 2011 and 2016 SEIFA data, covering all 68 South Australian council areas, as an input when considering affordability, in the context of the proposed rate movements within a council's LTFP and those seen historically.

The index provides an indication of the relative position, in terms of access to economic resources, of each South Australian LGA area. It also provides an indication of whether the relative position is below or above the average, based on an ordinal scale[34]. The index is developed, based on analysis undertaken by the ABS, using census data variables associated with access to economic resources. The variables used include indicators of high and low income, as well as variables relating to high and low wealth. Areas with higher overall scores have relatively greater access to economic resources than areas with lower scores.

[33] A technical paper providing further information is available at: https://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/756EE3DBEFA869EFCA258259000BA746/$File/SEIFA%202016%20Technical%20Paper.pdf

[34] Each LGA has a score, where the average score is set to 1000 and the standard deviation 100. The scores can be ordered to relate to relative position and to provide a frequency distribution. The scores do not identify the difference in terms of access to economic resources in cash amounts.

Appendix 4: Consultation questions

Chapter 2: The legal framework for the rates oversight scheme

Section 2.3.1: Overarching intent of the legal framework

- Consultation question 2.1: Do stakeholders agree with this interpretation of the legal framework? If not, why not?

Section 2.3.2: The scope and context of the advice

- Consultation question 2.2: Do stakeholders agree with this interpretation of the scope and context of the advice to be provided under the scheme? If not, why not?

Chapter 4: Provision and publication of advice

Section 4.2: The principles underpinning the analytical framework

- Consultation question 4.1: Do stakeholders consider these principles appropriate for the analytical framework? If not, why not? How should they be changed and why?

Section 4.3.4: Applicability to the analytical framework

- Consultation question 4.2: Do stakeholders consider this an appropriate analytical framework? If not, why not? How should it be changed and why?

Section 4.4.1.1: The relevance of historical trends

- Consultation question 4.3: Do stakeholders consider it necessary to consider historical trends when applying the analytical framework? If not, why not? How should it be changed and why?

Section 4.4.1.2: What historical information is needed from each council?

- Consultation question 4.4: Do stakeholders consider this to be an appropriate approach for the collection of historical information? If not, why not? How should it be changed and why?

Section 4.4.1.3: Account for scale

- Consultation question 4.5: Do stakeholders agree that, where it is useful to do so, information should be normalised on a per rateable property basis? If not, why not? How should it be changed and why?

Section 4.4.1.4: Accounting for inflation

- Consultation question 4.6: Do stakeholders agree that use of the CPI is an appropriate index to utilise when considering a council's operating income and expenditure growth over time? If not, why not? How should it be changed and why?

Section 4.4.2: The key questions to address

- Consultation question 4.7: Do stakeholders consider these to be appropriate questions for implementing the analytical framework? If not, why not? How should they be changed and why?
- Consultation question 4.8: Do stakeholders consider the proposed approach to a material amendment appropriate? If not, why not? How should it be changed and why?

Section 4.4.5: Comparison of historical trends to any revised SMP

- Consultation question 4.9: Do stakeholders consider this an appropriate approach to the analytical framework to assess the key questions in Table 5? If not, why not? How should the approach be amended and why?

Section 4.5.1: Content of the advice

- Consultation question 4.10: Do stakeholders consider this an appropriate approach to developing the content of the advice that the Commission provides to each council? If not, why not? How should the approach be amended and why?

Section 4.5.2: Publication of the advice

- Consultation question 4.11: Do stakeholders consider this an appropriate approach to adopt for the publication of the advice, given the legal framework? If not, why not? How should the approach be amended and why?

Section 4.6.1: Alignment with the legal framework

- Consultation question 4.12: Do stakeholders consider the analytical framework aligned with the legal framework? If not, why not? How should the approach be amended and why?

Section 4.6.2: Alignment with the overarching principles for the analytical framework

- Consultation question 4.13: Do stakeholders consider the analytical framework to be aligned with the overarching principles for its development? If not, why not?

Chapter 5: Guidelines and information provision

Section 5.2: Guidelines and information provision

- Consultation question 5.1: Do stakeholders consider publishing the guidelines and proforma Excel template no later than the start of each the Relevant Financial Year appropriate? If not, why not? How should the approach be amended and why?

Section 5.3: Timing of information provision

- Consultation question 5.2: Do stakeholders consider the proposed timing for information provision appropriate? If not, why not? How should the approach be amended and why?

Chapter 7: Cost recovery

Section 7.2: Reasonable costs

- Consultation question 7.1: Do stakeholders agree with the Commission's approach to allocating its projected indicative costs across the first cycle of the scheme? If not, why not? How should the approach be amended and why?

- Consultation question 7.2: Do stakeholders agree with the Commission's approach to addressing any material difference between its actual costs and its projected indicative costs? If not, why not? How should the approach be amended and why?

Section 7.3.1: Should councils be billed directly of via the LGA?

- Consultation question 7.3: Do stakeholders agree that the Commission should bill the LGA the total yearly cost associated with the scheme, noting that any such scheme would require unanimous agreement between the LGA and member councils covering at least the first four-year cycle? If not, why not?

Section 7.3.2: When should councils be billed and with what frequency?

- Consultation question 7.4: Do stakeholders agree with the Commission's approach to the timing and frequency of billing? If not, why not? How should the approach be amended and why?

Section 7.3.3: How should costs be allocated between councils?

- Consultation question 7.5: If the Commission were to bill each of the 68 councils separately, do stakeholders agree with its proposed approach to allocating the total yearly cost between councils? If not, why not? How should the approach be amended and why?

The Essential Services Commission
Level 1, 151 Pirie Street Adelaide SA 5000
GPO Box 2605 Adelaide SA 5001
T 08 8463 4444
E escosa@escosa.sa.gov.au | W www.escosa.sa.gov.au

Attachment 3

Proposed Content for a Submission to ESCOSA

The City of Holdfast Bay (Council) thanks ESCOSA for providing the opportunity to comment on the proposed draft of the Scheme.

Council is concerned that the proposed Scheme represents administrative burden and cost, rather than appreciable value to our community. Nevertheless as a scheme is legislated, Council seeks to ensure as much benefit for our community as possible from the final design.

It is noted that the provisions which have now commenced under which the proposed Scheme will be established was a negotiated compromise in response to the State's proposal to cap rates as part of local government reforms. While rate capping proposals were strongly opposed, during consultations Council acknowledged its commitment to effectiveness, accountability and transparency:

> "Council is amenable to the principle of an 'independent umpire' to review decisions considered problematic. However, Council strongly believes that the definition of 'problematic' must be the choice of the relevant community."

Council maintains the position that local communities are the most appropriate arbiters of what services they receive.

Many services and infrastructure provided by councils is discretionary. While capacity to pay is a mathematical calculation, willingness to pay is not.

As ESCOSA's draft framework notes, "the intention behind the scheme is to give ratepayers greater confidence that the rates they pay are those necessary for their councils to provide *the services they value*" (emphasis added).

Historical mathematical trend assessments will not adequately account for community expectations, nor how they change over time or in response to macro-economic and other environmental conditions.

Also, questions as to the future planning of new capital works and initiatives are absent. Councils traditionally only borrow for new capital – this in turn impacts the NFL ratio and in turn depreciation. All the asset related expenditure questions appear to be focussed solely on asset renewal, not asset upgrade. In practice most asset renewal are upgrades reflecting the community requirement to improve its amenity.

The draft framework suggests that long term plans "would not be expected to exhibit significant variation through time (replacement/renewal expenditure should not materially vary due to policy cycles, or short-term transient operational or financial concerns)". This assumption is incorrect in practice, as community expectations can change substantially and often quickly. Notably, the legislation limits "relevant matters" for ESCOSA's consideration as being:

- material amendments made or proposed to councils' plans and the reasons for them,
- revenue sources outlined in the Long Term Financial Plan, and
- other matters prescribed by Regulation (of which there are currently none).

Given the primary relevant matters relate to amendments of plans, it can be assumed that variations to plans *should* be expected and that neither "program stability" nor static plans are an inherently good indicator of financial sustainability. For example, new capital is one type of expenditure that does vary due to political cycles and can exhibit significant variations through time, as well as ongoing impacts. Often this type of expenditure is tied to capital grants from other tiers of government.

Additionally, one of the big drivers affecting the indicators is asset valuation and the impact of revaluations. Councils have policies and methodologies for asset valuation cycles in accordance with the accounting standards. Increased replacement costs directly affect depreciation, and any long-term modelling needs to take this is into account. Depreciation is an accounting function and a broad based indicator – it is affected largely by re-valuations and expenditure on new capital including changes in service standards associated with those new assets.

Furthermore, economic system shocks are not uncommon, along with service and cost-shifting from other tiers of government. In the period proposed for evaluation by ESCOSA, there has been a global financial crisis as well as a global pandemic, both of which resulted in swift and substantial industrial dislocations and restructures. Also in that period, there have been government decisions that have increased the cost of councils doing business, such as the waste levy and the cost of local government reforms, including this proposed Scheme. If these conditions are not accounted for, trend data can be skewed.

Another issue for the analysis of historical information is the impact of the timing of Government grants – in particular FAG grants and LRCI grants which substantially distort the operating ratio from one year to the next. The recent decision by the Commonwealth Government to pay 75% of the 2022/23 FAG grant in April 2022 is a good example.

Council also owns and operates a large self-funded Aged Care Complex – Alwyndor. The historical results and long term financial plan for this complex can impact Councils consolidated results and forecasts, even though Alwyndor is self-funded. To be meaningful for ratepayers, Council would prefer to use both Municipal only activities as well as providing consolidated results.

Council agrees there could be some value in having an independent body give assurance of long term financial sustainability, but believe this can be done more effectively by reviewing financial policies and principles and evaluating their reasonableness, rather than relying on historical trend data.

Forward looking plans are based on assumptions and policy position parameters a Council (and Audit Committee) has considered and endorsed. For example the City of Holdfast Bay has a number of financial management targets and ratios published in its Annual Business Plan. These inform the LTFP. It is suggested that ESCOSA's advice be based on an assessment of the reasonableness of these targets. Managing cost control, affordability and sustainability risk can be subjective in uncertain economic conditions such has been experienced in the past 2 years – hence any advice needs to be understood and explained in the context of assumptions and Council policies. Historical trends are a part of the evidence, however future trends are based on assumptions, financial targets and principles that need to be considered for reasonableness. Council's policies, financial management principles and targets are the most crucial for forecasting. A community may accept a higher debt level if it knows that major improvements will be made to its infrastructure resulting in a better community standard.

To this end, Council has a preference for qualitative assessments that take into account local conditions, rather than a standardised quantitative approach as currently proposed in the draft framework.

Given that the role of the Scheme is not to compare councils against each other, we do not believe a standardised quantitative approach is needed.

There is no such thing as a 'standard' council. A rural council maintaining hundreds of kilometers of roads has very different issues, concerns and community expectations than an inner-city council which entertains 90%+ of the State's visitors. Therefore assessing the sustainability and reasonableness of Council decisions requires a qualitative assessment that takes into account the particular conditions of, and community expectations within, each area.

There are many drivers for increased maintenance and renewal needs due to additional service requirements. For example the City of Holdfast Bay is a tourist destination. Council facilities including parks, reserves, public amenities and streetscape cleanliness require a higher standard of maintenance and renewal costs due to increased use of assets. Property growth is just one factor in assessing scale of requirements for a City and not all factors are relevant across all councils.

Council is aware that the Local Government Association is submitting a whole-of-sector response and concurs with the general intent expressed. In particular, Council supports the view that assessments should be scaled up if and when needs are identified, preferably using a local value and/or risk-based approach. If historical data is used, the timeframe it relates to should only go back so far as is relevant to inform the future, and should be data that is publicly available which does not need to be re-formatted by councils. When considering future plans it is considered that a 10 year time horizon is too long for meaningful decision making and forecasting. A shorter time period of 5 years is preferred to forecast and model more accurately costs and revenue requirements.

Council also strongly believes that the use of the term 'CPI constrained' and the application of CPI in general is inappropriate and will potentially create misunderstanding and unnecessary mistrust. At a time in history where trust in governments in general is at a record low and misinformation is rife, it does not serve any tier of government to pursue reductionist arguments for populist ends.

Historical budgets and results have been prepared and measured based on plans that have been provided to the community through the annual consultation process that include assumptions, financial management principles and targets and, where applicable, new capital and operational initiatives. Community consultation, feedback and outcomes have been historically considered by both the Audit Committee and Council. To use historical CPI as a comparative measure does not present a useful picture given the historically approved expenditure plans and outcomes that have been consulted on.

CPI is a broad based measure only and ESCOSA has noted the existence of a council specific index used within the local government sector called the Local Government Price Index (LGPI). The draft Framework comments that this is not relevant for the purposes of the scheme, however, Council consider LGPI to be extremely relevant, as it measures a more appropriate basket of goods and services. The fact that it is developed in conjunction with the South Australian Centre for Economic Studies provides credibility and robustness to this measure.

In any case, there are many reasons why a council may introduce a rate rise above CPI or LGPI, most of which are rooted in community expectations. To suggest, either by inference or directly, that rates should never rise above CPI ignores the realities of community expectations and undermines the extensive engagement processes that council are legislatively required to abide by.

As submitted during engagement on local government reforms, Council suggested a different scheme to that proposed, whereby:

> "Rather than all councils being required to submit their plans for annual independent evaluation, ….the designated authority be tasked with providing independent advice on plans only where 51% of the number of people who voted in the last election of that council lodge an objection against their proposed plan.
>
> Such a mechanism would keep the power over local decisions within communities, while providing assurance of remedy where a substantial number of citizens believe a decision to be incorrect. It should also increase engagement with the annual business planning process as councils will have greater impetus to ensure their communities are invested in the content of their plans and citizens will feel like they have a regular (annual, as opposed to four-yearly at the ballot box) and direct line of influence, should council be making decisions they are unhappy with. The proposed percentage also ensures that the numbers are representative and achievable, thereby improving accountability, efficiently."

As it did then, Council now also strongly objects to administratively burdensome processes being imposed on all councils due to the questionable decisions of some.

As such, Council's strong preference is for the State to bear costs of the proposed Scheme, since it's of the State's making. It is also noted that the costs associated with the proposed scheme are far in excess of what was anticipated.

However, given the legislation allows for costs to be shifted to councils, it would be more equitable to distribute costs on a pro-rata basis relating to population, rather than a flat fee. Council does not consider it equitable that councils with very low rating bases to bear the same costs as a Council who can leverage greater resources.

In any case, the scope of the proposed scheme should be reduced to address costs as much as possible. The scope of the proposed Scheme and the information requested should be directly relevant to and used for the purposes of the narrow scope outlined in the legislation, not the expansive interpretation set out in the draft Framework.

Attachment 2

Local Government Association of South Australia

The voice of local government.

Local Government Rates Oversight Scheme – ESCOSA Draft Framework and Approach

LGA Consultation Paper

April 2022

CONFIDENTIAL

Introduction

On 30 April 2022, the new 'rates oversight scheme' established in section 122 of the *Local Government Act 1999* (the Local Government Act) will commence. This scheme requires the designated authority (currently the Essential Services Commission of SA (ESCOSA)), on a four yearly rotating schedule, to review a range of council strategic management planning documents and provide advice to the council. The councils to be reviewed in each year of the cycle is determined by ESCOSA. The ESCOSA advice to councils and each council's response must be published in both the draft and adopted Annual Business Plan.

The rates oversight scheme was approved by Parliament as part of the *Statutes Amendment (Local Government Review) Act 2021*. The State Government argued that the sector would benefit from a robust framework for financial accountability. The arrangements were ultimately supported by the local government sector as an alternative to rate capping.

ESCOSA has now released its **'Draft Framework and Approach' (DFA)** for the rates oversight scheme. It has released this to the public and called for submissions. The LGA intends to make a submission drawing upon input from member councils.

Confidentiality

This consultation document is provided to LGA member councils on a confidential basis. A previous version of the document was released without the 'confidential' watermark in error. Please do not utilise the earlier version of this consultation paper in any council report.

The document contains LGA advocacy positions and is intended to inform the development of a sector wide response to the ESCOSA DFA public consultation process. The document is also intended to assist councils with the development of submissions to both the LGA and ESCOSA. Access is provided to LGA member councils only via the secure member access to the LGA website.

If this document is considered as part of a formal council agenda the LGA requests that it be considered in confidence under section 90(3)(j) on the basis that the LGA is constituted as a public authority[1]*. An example confidentiality order, consistent with the requirements of this section is provided as Appendix 1 to this document.*

LGA consultation process

The focus of this consultation document is to identify issues of strategic importance to the sector and seek views from the sector as to the Secretariat's interpretation of the DFA. The LGA also welcomes any feedback on the specific questions posed by ESCOSA. The detailed submission to be prepared by the LGA will address each of the questions asked in the DFA.

[1] *Local Government Act 1999*, Schedule 1, Part 1—Local Government Association, s 1(3)

The LGA consultation timeframes are as follows:

ESCOSA DFA released	31 March 2022
LGA Consultation Paper released	Week beginning 4 April 2022
LGA LG Equip Zoom Update – Rates Oversight	21 April 2022
Deadline for feedback to the LGA Secretariat (to be consolidated into a sector-wide submission)	**13 May 2022**
Deadline for submissions direct to ESCOSA	27 May 2022

ESCOSA's closing date for submissions is 27 May 2022. This date was extended at the request of the LGA. If member councils provide a submission directly to ESCOSA, we request that a copy also be forwarded to the LGA Secretariat.

It is recognised that the 13 May due date for feedback to the LGA Secretariat may present some challenges in achieving a council endorsed response. The Secretariat welcomes administrative responses within this timeframe and encourages councils to provide a formally endorsed submission directly to ESCOSA.

It is important that all councils consider the implications of ESCOSA's proposed DFA and provide feedback, not just those councils scheduled in the first year of the four yearly cycle.

Council responses and copies of submissions made directly to ESCOSA can be provided to Andrew Lamb, LGA Local Government Reform Partner at andrew.lamb@lga.sa.gov.au.

The LGA will hold an LG Equip Zoom Update session on the Rates Oversight Scheme on **21 April 2022**. In this session, the LGA Secretariat will outline the issues and provide participants with a significant opportunity to ask questions. The session will be open to elected members and relevant council employees. Mr Adam Wilson, CEO, ESCOSA will be in attendance at the Zoom update.

Other resources currently available to the sector in relation to the rates oversight scheme include:

- LG Equip Information Paper – Rates oversight scheme (available here)
- LG Equip Information Paper – LG Reform and its potential impact on financial and asset management planning (available here).

Executive Summary

The LGA understands the rates oversight scheme in a manner consistent with the words of the Local Government Act and the Second Reading Speeches of respective Local Government Ministers.

Based upon member council feedback provided through LGA-sector consultation on the *Statutes Amendment (Local Government Review) Bill 2020*, the LGA supports a rates oversight scheme, in the form articulated in the Parliamentary debates and legislation.

As outlined in this document, the LGA expresses concern that the scope, level of detail and costs, proposed in ESCOSA's DFA represents a significant departure from Parliament's expressed intentions.

Whilst the scheme is referred to colloquially as the 'Rates Oversight Scheme', it is important to note that the scheme was inserted into section 122 which deals with strategic management plans and is therefore essentially a review of s122 related documents. The amendments to section 122 were designed as an oversight scheme, not an audit or an otherwise comprehensive review of a councils' financial, budgetary, risk and control settings.

The LGA is not persuaded that section 122 is broad enough to permit a review of the scope contemplated in the DFA:

> *The* ***essence of the scheme*** [emphasis added] *is that the Essential Services Commission (Commission) will provide to each of the State's 68 local councils (on a four-yearly rotational basis) advice on the:*
>
> - *appropriateness, and effective maintenance and implementation, of the council's long-term financial plan (LTFP), and infrastructure and asset management plan (IAMP), including any material amendments proposed or made in respect of those plans, and*
> - *appropriateness of proposed financial contributions by the council's ratepayers under those plans.*[2]

The LGA considers that the 'essence of the scheme' is contained within section 122, which:

- provides that the designated authority must provide advice to the council on *the appropriateness of the relevant matters in the context of the council's long-term financial plan and infrastructure and asset management plan* (s122(1f)(a)); and
- defines the '**relevant matters**' as *material amendments made or proposed to be made to the council's long-term financial plan and infrastructure and asset management plan and the council's reasons for those amendments* and *revenue sources outlined in the funding plan* (s122(1e)).[3]

The LGA acknowledges that the Act provides that the designated authority must have **regard to the following objectives**:

> (i) *the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans;*
>
> (ii) *the objective of ensuring that the financial contributions proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan are appropriate and any material amendments made or proposed to be made to these plans by the council are appropriate*[4]*;*

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[2] ESCOSA, Local Government Rates Oversight Scheme, *Draft Framework and Approach* (March 2022), Executive Summary – Page 1.

[3] Noting that at this time, no regulations under section 122(1e)(c) have been proclaimed.

[4] s122(1g)(a), *Local Government Act 1999*

This section is primarily about the requirement of councils to perform their functions in accordance with the Objects set out in section 3 of the Local Government Act. That is, a statutory object of councils is to *"provide for appropriate financial contributions by ratepayers to those services and facilities"* (s.3(f)).

Section 122(1g) restates the objectives set out in section 3 and merely provides that ESCOSA must have regard to *the council's* objective of providing for "appropriate financial contributions by ratepayers to those services and facilities".

Interpreted in this manner, section 122(1g) is not intended to expand the scope of ESCOSA's proposed review[5]. In fact, the opposite is true. Through its choice of words, section 122(1g) is centring ESCOSA's review on specific objects in the Local Government Act. As these and no other objectives are provided in section 122, ESCOSA should not pursue objectives not specifically provided for.

This argument is strengthened by virtue of the nature of the documents contemplated within 'the relevant matters'. The LTFP (including the funding plan) is a high level document which *outlines the intended sources of total revenue (such as revenue from rates, grants and other fees and charges)* and therefore the LGA considers that the focus should be on whether the proposed aggregate revenue sources are appropriate (having regard to the objective under s122(1g)(a)(ii)).

The LGA therefore submits that the scope of review contemplated by section 122 is much more limited than as proposed in the DFA. The DFA also posits that the ESCOSA has a discretion to expand the scope of its review[6] by requesting additional information or by deciding to provide advice on other matters it considers appropriate[7].

The LGA does not agree that ESCOSA has a unilateral power to expand this scope. Rather, the discretion provided by these sections is merely to enable the collection of such additional information ESCOSA requires *to provide advice on the LTMP and the IAMP* for the objectives set out in section 122(1g).

To the extent that ESCOSA does have a discretion about:

- which documents it requires councils to provide; and
- the range of matters it analyses, as part of its review,

the LGA submits that ESCOSA should err on the side of a limited, high-level review, as contemplated by Parliament. It should seek information that is necessary for it to perform its statutory function, but no more than that.

The LGA accepts that councils will benefit from high-level advice on LTFP's and IAMP's. The LGA is not convinced that the proposed DFA will deliver additional benefits to the sector, commensurate with the significant additional cost.

Instead, the LGA recommends that ESCOSA design a rates oversight scheme that:

- is limited in scope to reviewing the intended revenue sources outlined in the funding plan and material amendments made or proposed to be made to the council's LTFP and IAMP (and such other documents required to properly understand these two documents), and the council's reasons for those amendments;
- is further limited in scope to the objectives set out in section 122(1g)(a); and
- provides each council with high-level advice about the LTFP (including funding plan) and IAMP.

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5 Whilst this is ESCOSA's limited focus, we note that Councils are required to act consistently with all of the clauses in section 3 of the *Local Government Act 1999*

6 DFA pg 9, '*The scheme is relatively general and provides the Commission with considerable scope in relation to scheme design and implementation, as well as the advice which is to be provided to each council'*.

7 ESCOSA, Local Government Rates Oversight Scheme – Draft Framework and Approach, March 2022, Section 2.3.2

As the rate oversight scheme is new, the LGA considers it prudent to use the first four years to set a baseline and then using a risk-based approach, scale up the scope of the review for a particular council if a need is identified. This aligns with the wording of s122(1f)(b) which provides that the designated authority, may, if it *considers it appropriate having regard to the circumstances of a particular council, provide advice in relation to any other aspect of the council's long-term financial plan and infrastructure and asset management plan.* It is also consistent with ESCOSA's "better regulation" approach, which it describes as being risk based, proportionate to the problem that is being addressed and subject to continuous improvement and monitoring[8].

Finally, ESCOSA provides in Principle 2 in the DFA:

> "*in the absence of significant shocks outside of a council's control, its long-term plans would not be expected to exhibit significant variation through time (they should not vary due to political cycles, or short-term transient operational or financial concerns)."*

The LGA notes that councils are democratically elected to represent the hopes and aspirations of local communities. These communities (as expressed through their votes) are entitled to change their priorities and elect new representatives. Ultimately, decisions about revenue and expenditure remain the responsibility of elected members of council and long-term plans will change as a result of political cycles. It is also noted that the local government sector is often constrained by political decisions of state and federal government which may affect service delivery, infrastructure development and other costs to council. For example, there may be a sudden offer of grant funding for an asset on a council's long-term capital program which, in order to secure the funds, the council must match dollar for dollar. These matters must be responded to in a timely way that considers the best interests of each council's community and may result in unanticipated changes to a council's LTFP and/or IAMP. ESCOSA advice should therefore provide a framework within which elected members can make informed decisions, understanding the implications of those decisions.

Background

Rates Oversight Scheme - Changes in Scope

The rates oversight scheme, now embedded in the Local Government Act[9], resulted from a series of negotiations with the State Government, as an alternative to rate capping. A number of rate capping proposals had been included in legislative amendments put forward by the State Government and in Private Members' Bills.

Rates oversight - first iteration

The first iteration of rates oversight was introduced into Parliament by then Local Government Minister Stephan Knoll on 17 June 2020, as an element of the *Statutes Amendment (Local Government Review) Bill 2020* (the Review Bill).

That proposal focused on changes to council rates. Councils would have been required to explain:

- increases in revenue from general rates including the reasons for the change;
- the impact of the rates change;

[8] ESCOSA, "Charter of consultation and regulatory practice", November 2019, page 5 (available at https://www.escosa.sa.gov.au/regulatory-approach/charter-of-consultation-and-regulatory-practice)

[9] Section 122, *Local Government Act 1999,* commencing 30 April 2022.

- information as to whether consideration had been given to alternatives to the proposed change in total revenue from general rates, such as alternative expenditure measures or funding proposals; and
- information as to how the proposal was consistent with the council's long-term financial plan and infrastructure and asset management plan.

During his Second Reading Speech[10] on the Review Bill, Minister Knoll explained the scope, thus:

> "*Councils will now be required to receive and consider advice from an independent body on their proposed revenue from general rates for each financial year. Councils will need to provide information on their proposed rate revenue to this body at the end of the calendar year, along with critical information on the context in which this revenue change is proposed. This will include the council's view of the impact of the rate change on its ratepayers, whether the council has considered alternate mechanisms such as the responsible use of debt, the use of council reserves or exercising spending restraint and, most importantly, how the proposed change is consistent with the council's long-term financial plan and infrastructure and asset management plan.*"

Based on member input, the LGA accepted the principle of a rates oversight scheme, whilst advocating strongly for a more modest scope and a more realistic reporting timeline.

Rates oversight - second iteration

On 13 October 2020, as a result of LGA and sector advocacy, then Minister for Local Government, Vickie Chapman, introduced a modified rates oversight scheme, with a more limited scope. The scope of the ESCOSA review was centred around a council's LTFP and its IAMP.

During debate on the Review Bill, then Minister Chapman told the House of Assembly[11]:

> *"These amendments make significant changes to the rate monitoring scheme included within the bill, following extensive discussion with the LGA. In summary these changes require council to receive advice from a designated authority on their proposed revenue every three years rather than every year[12], refocus this advice from council's annual business plans to the revenue decisions that they make within the context of the council's 10-year financial plan, remove the minister's ability to direct the designated authority to consider particular matters, remove the minister's ability to direct councils on the basis of a report from the designated authority and clarify that the designated authority is the Essential Services Commission of South Australia unless another body is prescribed. I also note that most of these amendments are the same as the amendments that were filed on 24 September. **The only further amendment is to remove the ability of the designated authority to require councils to provide information as it determines*** [emphasis added].

Note that the clearly expressed intention of the State Government was to specifically remove ESCOSA's ability to require councils to provide any information it determined. Rather the ESCOSA's role was clearly articulated as:

- A review of a council's LTFP and IAMP, in particular, any changes to these documents;

[10] SA Parliament, House of Assembly Official Hansard, Second Reading, *Statutes Amendment (Local Government Review) Bill,* the Hon S.K. Knoll (Schubert—Minister for Transport, Infrastructure and Local Government, Minister for Planning), 17 June 2020.
[11] SA Parliament, House of Assembly Official Hansard, Legislative Review Committee, the Hon V.A. Chapman (Bragg—Deputy Premier, Attorney General, Minister for Planning and Local Government), *Statutes Amendment (Local Government Review) Bill* Committee Stage, 13 October 2020.
[12] Note that, as a result of LGA advocacy, ESCOSA will now review each council every four years instead of every three.

- ESCOSA's scope of inquiry was limited to the objectives set out in new subsection 122(1g), namely:
  - the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans;
  - the objective of ensuring that the financial contributions proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan are appropriate and any material amendments made or proposed to be made to these plans by the council are appropriate.
- ESCOSA did not have the power to unilaterally increase the scope of its reviews. For this to occur, a Regulation was required .

This version of rates oversight scheme, explained by the Minister, was the version approved by the Parliament.

Rates oversight - third iteration

The rates oversight scheme set out in ESCOSA's DFA is effectively the third iteration of the proposed scheme. The ESCOSA DFA represents a significant increase in the proposed scope of the rates oversight scheme and, in many areas, goes beyond what was contemplated in even the first iteration outlined previously in this paper. The LGA does not support the approach proposed by ESCOSA in the DFA. In the table, below, the LGA responds to specific matters and questions posed by ESCOSA, in relation to the DFA.

All references to legislation in this document, including in the table, are references to sections in the *Local Government Act 1999*, most of which will commence on 30 April 2022.

Call for submissions

The LGA Secretariat is seeking submissions from councils by **13 May 2022** and administrative responses are welcome. Direct submissions to ESCOSA are required by 27 May 2022 and we request that a copy of any direct submissions also be provided to Andrew Lamb, Local Government Reform Partner (andrew.lamb@lga.sa.gov.au).

The LGA is aware of the length and complexity of the issues contained in this consultation paper. However, we are already aware anecdotally that these issues are likely to be of considerable interest to many councils. ESCOSA has posed a large number of very specific questions and we thought it important to respond to each of these so that the sector's consent could not be implied where a response was not provided to ESCOSA. For these reasons this consultation paper is necessarily detailed.

This consultation paper has been provided to facilitate councils returning information to the LGA which will inform the development of a more detailed, formal submission to ESCOSA. It is not intended that this consultation paper be provided to ESCOSA as part of a direct submission.

This paper provides preliminary views of the LGA Secretariat, and they are intended to be tested with member councils prior to development of the LGA final submission. It is important that the LGA and member councils can work through the issues in a frank and confidential manner without undue concern that testing an idea will lead to, for example, adverse media comment. Further the LGA Secretariat's comments are designed to encourage understanding and debate on the DFA, with a final LGA Board view to be determined following the completion of the consultation process with councils.

Councils are welcome to adopt any of the views expressed in the consultation paper as part of their own direct submission to ESCOSA.

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 2.3.1 ***Overarching intent of the legal framework***	ESCOSA recitation of the legal framework is substantially correct. However ESCOSA draws upon second reading speeches and a range of ancillary powers in section 122 to assert a wider scope than authorised by the legislation. Section 122 requires ESCOSA to focus on the LTFP and IAMP. Further powers are given, if required, to enable ESCOSA to request additional documents or information, necessary to properly understand the 'relevant matters'. The power to obtain these additional documents is incidental to enabling ESCOSA to perform its core function in relation to the 'relevant matters'. It is not the case that the incidental power to obtain clarifying documents authorises ESCOSA to expand the scope of its review. The LGA is concerned that ESCOSA's expansive interpretation of the ambit of its review will result in significant additional work by council administrations to create and supply additional information. This interpretation is also a primary driver for the significant additional costs that ESCOSA propose to invoice each council. Minister Chapman gave the SA Parliament indications that the costs of ESCOSA reviews per council would be in the order of $20,000[13] . The LGA is concerned about the $52,000 per council, per review figure, included in ESCOSA's consultation paper. 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 Act and in Minister Chapman's second reading contribution.	(ESCOSA Question 2.1) Do stakeholders agree with this interpretation of the legal framework? If not, why not?

[13] Hansard SA House of Assembly, 13 October 2020, Second Reading Debate on the Statutes Amendment (Local Government Review) Bill 2020

ESCOSA DFA Reference	***LGA Secretariat Comments***	***Council Comments***
Ref: 2.3.2 ***The scope and context of the advice***	Further ESCOSA has used the objectives set out in s122(1g) to justify an additional increase in the scope of their review. This is not how s122 is intended to operate. The LGA reiterate earlier comments that section 122(1g) restates the objectives set out in section 3 and merely provides that ESCOSA must have regard to ***the council's*** objective of providing for "appropriate financial contributions by ratepayers to those services and facilities". The LGA note that the DFA states: "*…the Commission must have regard to ensuring that the financial contributions proposed to be made by ratepayers,* ***under the council's LTFP and IAMP*** *[emphasis added], are appropriate.*'[14] Section 122(1g) is focussed on aggregate revenue sources, and it is not necessary to disaggregate this data further as proposed in the ESCOSA DFA.	(ESCOSA Question 2.2) Do stakeholders agree with this interpretation of the scope and context of the advice to be provided under the scheme? If not, why not?

[14] DFA pg. 9

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 4.2 ***The Principles underpinning the analytical framework***	These principles proposed by ESCOSA appear to be consistent with the legislative amendments and are a sound basis for designing a limited, high-level review as contemplated by the legislation. However, the LGA is not convinced that these principles have been applied in designing the proposed framework and approach. In particular, despite indicating a focus will be given to key overarching targets and measures, the scope of information required from councils indicates a more granular level of review. The proposed framework and approach appears to delve into a deeper level of operational data which, given the volume of required information outlined, adds complexity both to councils in terms of responding and ESCOSA in terms of analysis required. The LGA accepts that it is easier for a council to provide existing documents than it is to compile information into new documents. The LGA supports the use of data already available to ESCOSA via the SA Local Government Grants Commission. The proposed DFA includes requirements for councils to provide information that will require a significant amount of work from councils to populate the templates provided. The LGA again notes that each additional document reviewed by ESCOSA adds to the scope of the review, the time taken by ESCOSA personnel to analyse the information provided (including comparing the information provided in each document with each other document provided) and the resulting costs of the review. With regard to Principle 5 (DFA, p13): it is noted that the LGA does not collect data, the LGA utilises whole of sector data from the Local Government Grants Commission database reports. The LGA is not a party to the ESCOSA Rate Oversight Scheme and is not subject to ESCOSA's information-collecting powers contained in section 122.	(ESCOSA Question 4.1) Do stakeholders consider these principles appropriate for the analytical framework? If not, why not? How should they be changed and why?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 4.3 ***Overarching analytical framework***	The first and second iteration of the rates oversight scheme were described (by the State Government) as high-level advice about the state of and sustainability of councils' financial positions, as set out in their LTFP and IAMP. The DFA proposes a far more detailed analysis of each council's financial position. Some of the information proposed to be reviewed (eg cost controls, service risk profiles, demographics of ratepayers, reports of audit committees, information on a per rateable property basis) would require significant time and resources to analyse and report on. The LGA has not seen evidence that a review considering this additional detail would provide greater overall benefit to the local government sector than a high-level' review. The DFA does not comment on the benefits of requiring this detailed information, compared to the costs of obtaining and analysing it. Further, ESCOSA proposes to analyse councils' documents by reference to a range of criteria, likely beyond the purview of the rates oversight scheme. For example, ESCOSA proposes to examine 'program stability', which is described as "*the provision of reliable quality services over time, and requires a stable and consistent set of actions, from the perspective of day-to-day operational practices and infrastructure management".* The LGA submits: • that the legislation does not contemplate a review of day-to-day or operational matters. • The review should not consider such a level of detail; and • In any event, elected councils are entitled to make changes to the manner in which services are provided. ESCOSA advice therefore should be limited to high-level advice enabling council members to understand the implications of their revenue decisions with reference to their LTFPs and IAMPs.	(ESCOSA Question 4.2) Do stakeholders consider this an appropriate analytical framework? If not, why not? How should it be changed and why?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 4.4.1.1 ***The relevance of historical trends***	The DFA proposes the collection of historical data going back to 2007-08. The LGA acknowledges that historical trends are an important consideration, however we suggest that a timeframe of ten years historical data should provide sufficient reference. This reflects the current timeframe for LTFPs and IAMPs in the Act (being for a period of ten years) and would allow ESCOSA to look back ten years and forward ten years. The LGA notes that some information older than 7 years is likely to have been archived and will not therefore be readily available. Similarly, the LGA is concerned with a number of template forms contained in the DFA which appear to require the creation (or re-creation) of new data sets. The LGA submits that in accordance with principle 5, councils should only be required to provide information which is, in fact, readily available. The LGA does not support a review approach which requires council staff to gather, analyse and report existing information to ESCOSA in new templates/formats. The LGA does not believe that the resources required to collect information back to 2007-08 is commensurate with the potential insight to be gleaned from this historical data. This is particularly so as since 2005, councils have made significant improvements in accounting practices, risk control and information gathering and reporting. As a result, practices older than ten years are unlikely to have relevance to recent trends.	(ESCOSA Question 4.3) Do stakeholders consider it necessary to consider historical trends when applying the analytical framework? If not, why not? How should it be changed and why? (ESCOSA Question 4.4) Do stakeholders consider this to be an appropriate approach for the collection of historical information? If not, why not? How should it be changed and why?
Ref: 4.4.1.3 ***Accounting for scale***	The LGA question the value to be gained by going to a deep level of granularity. The LGA also believe that picking one metric to normalise information by could be misleading. ESCOSA will still be able to draw meaningful conclusions by looking at total revenue sources without looking at per rateable property. The LGA reiterates that council rates are not a fee for service. Federal, state and local tiers of government in Australia operate on the principle that all citizens make an equitable contribution to the costs of running their government. Not all citizens	(ESCOSA Question 4.5) Do stakeholders agree that, where it is useful to do so, information should be normalised on a per rateable property basis?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	use all services such as public libraries, playgrounds or jetties and they are unlikely to travel over every local road or bridge. Citizens contribute to the costs of all government services, even if they do not use those services. Decisions about council service levels are matters for the elected members of councils. High-level ESCOSA advice on the financial implications of council decisions is welcomed.	If not, why not? How should it be changed and why?
Ref: 4.4.1.4 ***Accounting for inflation***	The CPI measures increases in the costs of goods and services purchased by households/ consumers. This is a different bundle of goods and services than the bundle purchased by councils. The LGPI measures increases in the costs of goods and services actually purchased by councils. The LGPI is a more relevant index by which to judge whether council expenditure and revenue increases are reasonable. It is reasonable for ECOSA to use CPI as an initial reference point (eg to note that costs faced by councils are rising faster than costs faced by consumers). If actual council expenditure costs are rising in accordance with the LGPI (rather than CPI) it is reasonable for council budget setting to be based upon the more relevant index. 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 prescribe the inflation index, ESCOSA inappropriately limit the discretion bestowed upon councils under the Act.	(ESCOSA Question 4.6) Do stakeholders agree that use of the CPI is an appropriate index to utilise when considering a council's operating income and expenditure growth over time? If not, why not? How should it be changed and why?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 4.4.2 ***The key questions to address***	The LGA believe that the first three key questions on page 22 encapsulate much of what is required of a high-level review of the 'relevant matters'. A high-level review would satisfy ESCOSA's section 122 obligations whilst also providing councils with useful but not extraneous advice. The LGA are still considering the detail of these questions in the context of broader comments above.	(ESCOSA Question 4.7) Do stakeholders consider these to be appropriate questions for implementing the analytical framework? If not, why not? How should they be changed and why?
Whether a council's LTFP and IAMP are robust, consistent with each other and successfully implemented, with actual performance relative to plans monitored?	Under section 122, it is not ESCOSA's role to audit whether a council has 'successfully implemented' the LTFP and IAMP. However, ESCOSA should have 'regard to' the historical trends evidenced by the financial indicators. For example, if a council's LTFP is projecting an Asset Sustainability Renewal Ratio of 100 percent for the next ten years but over the last five years the ratio has been below that, ESCOSA would be justified in highlighting this and recommending that the council review the robustness of the assumptions that have formed the LTFP.	
Do the LTFP and IAMP, and the implementation of those plans, ensure the sustainability of the council's long-term financial performance and position?	The 'relevant matters' relate to the material amendments made or proposed to be made to the LTFP and IAMP (and the potential impact on the revenue sources outlined in the funding plan) not to the implementation of the plans.	
What are the implications of the above for a council's long-term financial sustainability and service risk profile, and the consequent appropriateness of the path projected for	The LGA agree that the implications of a council's long-term financial sustainability forms part of ESCOSA's scope however the LGA does not agree that a council's 'service risk profile' is a matter contemplated by s122. The further factors which ESCOSA propose to review (ie. cost control, ratepayer demographics and practical implementation) descend into a level of detail beyond the scope of the legislation. Rather, these are matters for the	

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
general rates and other income sources?	democratically Elected Members of council, council administrations, council auditors and council Audit Committees. The LGA agree that the three key financial ratios are an appropriate mechanism which should guide high-level advice however we do not believe it is the role of ESCOSA to verify or audit the information that feeds into the ratios.	
Ref: Table 5: Key questions	The LGA proposes an approach consistent with the high-level review contemplated by s122. The *Local Government (Financial Management) Regulations 2011* Regulation 5(1) outlines that a LTFP must include: *(b) a summary of proposed operating and capital investment activities presented in a manner consistent with the note in the Model Financial Statements entitled Uniform Presentation of Finances; and* *(c) estimates and target ranges adopted by the council for each year of the long-term financial plan with respect to an operating surplus ratio, a net financial liabilities ratio and an asset renewal funding ratio presented in a manner consistent with the note in the Model Financial Statements entitled Financial Indicators.* *(2) A long-term financial plan must be accompanied by a statement which sets out—* *(a) the purpose of the long-term financial plan; and* *(b) the basis, including key assumptions, on which it has been prepared; and* *(c) the key conclusions which may be drawn from the estimates, proposals and other information in the plan.* The LGA therefore submit that the focus of ESCOSA's key questions should be on the information (that is required by the regulations to be included) in the LTFP (ie. what are the historical figures indicating about the validity and robustness of	

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	the assumptions used to predict the proposed high-level trends). Note that many councils provide more information in their LTFP than required by the regulations. The LGA does not believe that such a choice by a council expands the scope of the review contemplated by s122. The LGA does not believe it is the role of ESCOSA to verify or audit the data contained in council LTFPs and/or the ratios. The LGA notes that council financial statements are already audited by external auditors. The LGA does not support the scope of ESCOSA's review including any matter or any process which is already provided for in the legislative scheme governing SA councils (eg audits, comparisons of council data).	
Material amendment	The LGA agrees with ESCOSA that what is a 'material' amendment to a LTFP or IAMP will depend on the council being considered. The LGA does not believe it is appropriate to further constrain the definition of materiality. Councils have an existing understanding around what is considered 'material' in the context of their financial statements, as guided by Australian Accounting Standards. This understanding should be drawn on to guide ESCOSA in this regard.	(ESCOSA Question 4.8) Do stakeholders consider the proposed approach to a material amendment appropriate? If not, why not? How should it be changed and why?
Ref: 4.4.3 ***How the analytical framework can address the key questions and what information is required to do so***	The LGA does not support Methodological Proposal 3 which further expands the proposed scope of the review, adding additional analysis methods that will considerably increase council costs. For example the review of audited financial statements and audit committee reviews are all matters regulated by other parts of the Local Government Act with other bodies and individuals responsible for their oversight. The LGA does not support the ESCOSA review replicating any task already provided for in the statutory scheme.	(ESCOSA Question 4.9) Do stakeholders consider this an appropriate approach to the analytical framework to assess the key questions in Table 5? If not, why not? How should the approach be amended and why?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	The LGA accepts that section 122(1e) enables ESCOSA to make guidelines relating to the provision of information by councils. The LGA submits that this section authorises guidelines dealing with *how* relevant information is provided. The LGA does not consider that section 122(1e): • expands the possible scope of a rates oversight scheme; nor • does it authorise the acquisition of documents that are beyond the objectives of a review, as set out in section 122(1g). Section 122(1e) requires each council to provide “all relevant information” on: • material amendments made or proposed to be made to the council's LTFP and infrastructure and asset management plan and the council's reasons for those amendments; and • revenue sources outlined in the funding plan (which is part of the LTFP). This section relates to the provision of information. The LGA does not consider it lawful or appropriate to use section 122(1e) guidelines to increase the scope of the rates oversight review. The powers of ESCOSA to obtain information for s122 reviews are clearly defined in s122(1j). That is, ESCOSA “*may, by written notice,* ***require a council*** *[emphasis added] to give the designated authority, within a time and in a manner stated in the notice (which must be reasonable),* ***information in the council’s possession*** *[emphasis added] that the designated authority reasonably requires for the performance of the designated authority’s functions under this section”.* This power does not extend to information held by parties external to a council (ie. the LGA and/or LGFA). As argued above, the range of information that ESCOSA may obtain is limited by the words and context of s122. The LGA does not believe that the (usually wide) discovery powers available to ESCOSA pursuant to the *Essential Services*	

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	Commission Act 2002 are applicable when conducting a review pursuant to s122 of the Local Government Act. The expression “all relevant information” is, at first glance, broad. However, this expression must be read in the context of: • the purpose of the amendments to section 122, as articulated in the Second Reading Speeches; • the description of the LTFP and IAMP as the ‘relevant matters’; and • the objectives of the Act, set out in section 122(1g). The LGA does not agree that the expression ‘all relevant documents’ authorises the inclusion in the review of a wide range of documents, which are not necessary for ESCOSA to understand and provide a high-level review of the LTFP or IAMP. Further, the LGA does not accept that a power to obtain these documents (if such a power exists) authorises a widening of the scope of the rates oversight review. Furthermore, the LGA does not support the inclusion of graphs which include analysis of figures which are: • ‘CPI constrained’ – As outlined above, the Act provides discretion for councils to determine the key assumptions to be used in the development of their LTFP. The LGA contends that ESCOSA’s role is to assess whether the assumptions that a council has used are reasonable. It is not ESCOSA’s role to determine which indices or assumptions a council must use. The practical effect of this proposal could be that councils are effectively ‘constrained to CPI’. • ‘per property’ – The LGA question the value to be gained by going to a deep level of granularity. The LGA also believe that picking one metric to normalise information by could be misleading. ESCOSA will still be able to draw meaningful conclusions by looking at total revenue sources without looking at per rateable property.	

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 4.5.1 **Content of the advice**	ESCOSA proposes to "*provide an overarching picture of any potential cost control, affordability, and sustainability risk, based upon actual performance and forecast performance. Further, the advice can utilise available qualitative information regarding a council's SMP, its current CEO sustainability assessment and its approach to setting rates to identify how any risks identified in the quantitative assessment are managed/mitigated, creating opportunity for further discussions on those matters*". The LGA submits that the proposed 'Content of the advice' goes beyond the advice contemplated by the section 122 scheme. For example, section 122 does not contemplate that ESCOSA will assess how council manages and mitigates risks. The LGA position remains that the ESCOSA review is a high-level review, focused on the 'relevant matters'.	(ESCOSA Question 4.10) Do stakeholders consider this an appropriate approach to developing the content of the advice that the Commission provides to each council? If not, why not? How should the approach be amended and why?
Ref: 4.5.2 **Publication of the advice**	Section 122(1h) requires councils to publish ESCOSA advice and the council's response to that advice in its annual business plan (ABP) (which must be published on the council's website). ESCOSA proposes that councils publish this advice in full. It argues that this is in the public interest and would not constitute commercially sensitive information. The LGA assumes that ESCOSA's advice will be separated into findings and recommendations with attached explanatory and supporting analysis. The LGA accepts that the legislation requires the publication of ESCOSA advice and that it is in the public interest for this advice to be made public. A very large ESCOSA report may impact adversely on the size and readability of councils ABPs.	(ESCOSA Question 4.11) Do stakeholders consider this an appropriate approach to adopt for the publication of the advice, given the legal framework? If not, why not? How should the approach be amended and why?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	The LGA queries whether it is possible for an (ESCOSA-prepared) executive summary (ie. the findings and recommendations) to be published in the council's ABP, together with an ESCOSA link to the full document. This approach would ensure the full advice was available to council and all others who wished to access it; whilst keeping council ABP to a manageable size.	
Ref: 4.6.1 **Alignment with the legal framework**	The LGA does not agree with either the proposed analytic framework nor ESCOSA's interpretation of the legal framework. The LGA does not consider that the proposed analytical framework aligns with the legal framework. The analytical framework includes matters and a level of detail (eg service sustainability, costs control and affordability) beyond the scope of section 122.	(ESCOSA Question 4.12) Do stakeholders consider the analytical framework aligned with the legal framework? If not, why not? How should the approach be amended and why?
Ref: 4.6.2 **Alignment with the overarching principles for the analytical framework**	As already outlined above, the LGA believes that the analytical framework includes matters and a level of detail (eg service sustainability, costs control and affordability) beyond the scope of section 122.	(ESCOSA Question 4.13) Do stakeholders consider the analytical framework to be aligned with the overarching principles for its development? If not, why not?

<table>
<tr><th>ESCOSA DFA Reference</th><th>LGA Secretariat Comments</th><th>Council Comments</th></tr>
<tr><td>Ref: 5.2

Guidelines and information provision</td><td>The LGA notes Principle 5 which proposes a scheme that leverages existing information and evidence. By contrast, the ‘proforma Excel template’ contemplated in this question indicates that council officers will be required to populate new datasets (albeit using existing information) in new documents. The DFA contains several template documents which appear to require the insertion of large amounts of data to complete. This will:
Consume significant council resources in preparing; and
Expand the scope of the ESCOSA review beyond the scope contemplated by s122, thereby increasing overall council costs.
Some documents may already exist but may no longer be readily available (for example, an historical document which has been archived with State Records will require time and the payment of a fee before it can be retrieved.

The LGA submits that as far as possible, ESCOSA restrict the documents it compels councils to provide to those documents that already exist <u>and</u> which remain readily available.</td><td>(ESCOSA Question 5.1)

Do stakeholders consider publishing a revised set of guidelines and proforma Excel template no later than the start of each the Relevant Financial Year appropriate?

If not, why not? How should the approach be amended and why?</td></tr>
<tr><td>Ref: 5.3

Timing of information provision</td><td>A major concern with the first iteration of the Rates Oversight Scheme related to proposed timelines which were inconsistent with council budget preparation cycles. The timeframe set out in s122 was drafted, based upon feedback from the 68 councils, taking into account workloads of financial teams and the timing, each year, when particular documents would become available.

Section 122(1e) gives councils the option of providing the required information earlier than the 30 September deadline. The LGA does not agree that ESCOSA has a power to vary the statutory deadline set out in this section.

The guidelines referred to in s122(1e) enable ESCOSA to guide councils on how information is provided (for example, in a particular format). However, this guideline-making power must be exercised in a manner consistent with the Act.</td><td>(ESCOSA Question 5.2)

Do stakeholders consider the proposed timing for information provision appropriate?

If not, why not? How should the approach be amended and why?</td></tr>
</table>

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	For these reasons the LGA submits that the timeline for providing information to ESCOSA remain as set out in s122(1e).	
Ref: 7.1 ***Cost recovery - Introduction***	As set out above, several versions of rate capping and rates oversight schemes were put before Parliament. Ultimately, it was agreed that an ESCOSA review would focus on a council's 'long-term financial plan' (LTFP) and its 'infrastructure and asset management plan' (IAMP). ESCOSA proposes a scope of review that is considerably wider than contemplated by section 122. The LGA acknowledges that the more information analysed, the more expensive the resulting report will be. However, it does not follow that a review that is twice as complex or twice as expensive will provide double the value to the local government sector. A high-level, limited scope review will likely provide councils with sufficient information to make appropriate choices about their financial settings. Councils are required to reimburse ESCOSA for the costs of each review. ESCOSA has indicated that the cost per review per council may be in the order of $52,000. As ESCOSA proposes to adopt the same review process for each council there is unlikely to be a significant variation in the amounts paid by different councils. These costs are likely to fall on a council once every four years. Former Minister Vickie Chapman previously advised Parliament that the costs of an ESCOSA review were "*likely to be in the order of $20,000 per council.*[15]". ESCOSA now propose a process that would cost each council $52,000 per review.	

[15] Debate on the Statutes Amendment (Local Government Review) Bill 2020, House of Assembly. 13 October 2020.

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
	The LGA accepts that costs would inevitably increase, in the 18 months since Minister Chapman's Parliamentary costs statement. The LGA does not seek to bind ESCOSA to this undertaking. However, the increase in the scope of rates oversight reviews, as proposed by ESCOSA, has obviously led to substantial increases in the costs of the scheme to the sector. A reduction in the scope would reduce costs, ESCOSA has not made a case which would justify the proposed increase in scope.	
Ref: 7.2 ***Reasonable costs***	The LGA does not agree that the legislation provides for recovering set up and developments costs: *(1k) The designated authority may recover from a council (as a debt due from the council) the costs reasonably incurred by the designated authority* ***in performing its functions under this section*** *in relation to the council.* The LGA notes that the amendments to section 262M of the Act which will create the new Behavioural Standards Panel (the Panel) permit the Panel to invoice councils for "*the reasonable costs of establishing the Panel*". There is no similar clause entitling, ESCOSA to recover its establishment costs from councils. Section 122(1k) authorises ESCOSA to charge councils that for costs that are incurred "*in relation to the council*". This does not include the overheads or fixed costs of ESCOSA (eg recruitment costs, implementation of new IT systems) that are not attributable to a particular council or the establishment costs of the new scheme. It is a well-established principle that government taxation and fee for service powers must be drafted expressly. It is not sufficient for a power for a government agency to compulsorily acquire payments from third parties to be drafted in implied or indirect terms. As there is no legislative authority to charge councils, fixed costs, overheads and establishment costs must be borne by the State Government.	(ESCOSA Question 7.1) Do stakeholders agree with the Commission's approach to allocating its projected indicative costs across the first cycle of the scheme? If not, why not? How should the approach be amended and why? (ESCOSA Question 7.2) Do stakeholders agree with the Commission's approach to addressing any material difference between its actual costs and its projected indicative costs? If not, why not? How should the approach be amended and why?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
Ref: 7.3 **Cost recovery**	The Act requires ESCOSA to invoice each council directly, ESCOSA propose an alternative arrangement whereby ESCOSA send one bill to the LGA. The LGA, would then recover these funds from councils. ESCOSA also propose spreading the payments over four years so that councils pay a smaller amount each year rather than a large lump payment once every four years. The LGA does not have statutory authority to act in the manner ESCOSA propose. All 68 councils would need to agree that the LGA should act as their agent for the purpose of payment of ESCOSA invoices. The negotiations required to establish and maintain 68 agency agreements appears to involve a greater workload for all involved, compared with ESCOSA simply issuing invoices directly to councils. The LGA is therefore disinclined to agree to the Commission's proposal that they should bill the LGA unless member councils consider this would add significant value.	(ESCOSA Question 7.2) Do stakeholders agree that the Commission should bill the LGA the total yearly cost associated with the scheme, noting that any such scheme would require unanimous agreement between the LGA and member councils covering at least the first four-year cycle? If not, why not?
Ref: 7.3.2 **When should councils be billed and with what frequency?**	Going forward (after the first four years), councils would need an early indication of costs to build into annual budgets.	(ESCOSA Question 7.4) Do stakeholders agree with the Commission's approach to the timing and frequency of billing? If not, why not? How should the approach be amended and why?
Ref: 7.3.3 **How should costs be allocated between councils?**	The LGA will be guided by feedback from member councils.	(ESCOSA Question 7.5) If the Commission were to bill each of the 68 councils separately, do stakeholders agree with its proposed approach to allocating the total yearly cost between councils?

ESCOSA DFA Reference	LGA Secretariat Comments	Council Comments
		If not, why not? How should the approach be amended and why?

Appendix 1

Example confidentiality order

1. Pursuant to section 90(2) and (3)(j) of the *Local Government Act 1999* the Council orders that the public be excluded from attendance at that part of this meeting relating to Agenda Item XX (Report title), except the following persons:

   - List relevant staff names and position titles

   to enable the Council to consider item XX in confidence on the basis the Council considers it necessary and appropriate to act in a meeting closed to the public (excepting those persons listed above) in order to receive, discuss or consider in confidence the following information or matter:

   - information the disclosure of which would divulge information provided on a confidential basis by a public authority, being the Local Government Association of SA (LGA)

   the disclosure of which would, on balance, be contrary to the public interest, being information provided by the LGA in relation to proposed advocacy and sector wide submission in response to the Essential Services Commission of SA 'Draft Framework and Approach' that the LGA has requested be kept confidential at this stage.

2. The disclosure of this information would, on balance, be contrary to the public interest because it is in the public interest for the Council to be able to communicate on a confidential basis with the LGA about proposed sector advocacy and thereby act cooperatively with the LGA in achieving positive outcomes for the local government sector.

3. 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 or matter confidential.

Section 91(7) Order

1. Pursuant to Section 91(7) of the *Local Government Act 1999*, the Council orders that the following documents relating to Agenda Item XX (Report title) shall be kept confidential, being documents relating to a matter dealt with by the Council on a confidential basis under Sections 90(2) and 90(3)(j) of the Act:

   - Report and attachments
   - Minutes

   on the grounds that the documents relate to information provided on a confidential basis by a public authority, being the Local Government Association of SA (LGA) the disclosure of which would, on balance be contrary to the public interest, being information provided by the LGA in relation to proposed sector advocacy that the LGA has requested be kept confidential at this stage.

2. The disclosure of this information would, on balance, be contrary to the public interest because it is in the public interest for the Council to be able to communicate on a confidential basis with the LGA about proposed sector advocacy and thereby act cooperatively with the LGA in achieving positive outcomes for the local government sector.

3. This order shall operate until 30 June 2022.

4. Pursuant to section 91(9)(c) of the *Local Government Act 1999*, the Council delegates to the Chief Executive Officer the power to revoke this order in whole or part.