



**The Hon. A. PICCOLO (Light) (11:02):**

I indicate that I am the lead speaker for the opposition on this matter. Having said that, I will not go on for hours and hours, but will make a brief contribution to this bill. In making this contribution, I am of the understanding the government has given the LGA an undertaking that this matter will not be debated in the upper house until after the winter break. It is on that basis that we are proceeding with this matter.

I would like to indicate that, given the matter will be debated in the upper house after the winter break, the opposition has not formulated its final position on this matter and is still in the process of engaging with local government and others within the sector in order to reach a position that we believe is best for the community at large. In addressing this bill, in part, the role of the opposition is also to provide a critique of the bill and to reflect the views that have been expressed, both in support of the bill and also against the bill, and I will be doing so in my second reading contribution.

I indicate that a lot of the issues will be fleshed out in the committee stage of the bill. There are a number of questions that need to be addressed and matters to be clarified, and this will be done by myself and my colleagues throughout the committee stage. But, as I said, my contribution will be brief.

The first thing I would like to touch upon is the engagement processes undertaken in arriving at this bill as it is before us in this chamber today. In a news report in a local paper, the minister is quoted as saying that he would be seeing feedback from the state's councils and engaging with local government extensively both before the

bill is prepared and also after it is tabled. It will be interesting to see, through the committee stage, what that engagement has been, because the feedback I have received is clearly of mixed views.

Also, I have taken into account that the minister has given this house an assurance on a number of occasions that in his approach to matters before him, both in transport and local government and across his portfolios, he will deal with these matters in a very mature, adult way. I am sure we have been told that on a number of occasions and I suppose this is an occasion where we could put that to the test, because the way he has engaged with local government would indicate how adult and mature he is in his approach to getting these matters in parliament.

I think, in trying to pass that test, it is best to quote the individuals themselves. I think there is nothing better than what people actually say and do rather than what they profess to say and do. I quote from the second reading speech on 20 June when the minister tabled the bill and spoke to it. These are the comments he made:

I can think of no other sphere of government that can increase its main tax to this level in disregard of the views of their communities. Clearly, more oversight is needed, and this is exactly what this bill will deliver. The bill will cap the amount of revenue that councils can gain through their primary rating tool: general rates. This will require councils to carefully consider the decisions they make around their own operations and seek efficiencies ahead of greater revenue.

The bit I wish to emphasise and highlight here, because I think it goes to the core of this minister's view of local government generally, is the following:

I can think of no other sphere of government that can increase its main tax to this level in disregard of the views of their communities.

What the minister is alleging here quite strongly is that, as far as he is concerned, year in year out those people in those local councils, elected members and mayors who are embedded in those communities across the state, have a complete disregard for their communities and go about their business without any regard for their communities.

From my point of view, that is quite an insulting comment to make and quite an arrogant comment to make. It also disregards some of those elected members who have served their communities, in particular some of the members in those rural areas who have served for many years and many decades, and this is what this minister thinks of them. He thinks that when they turn up to a council meeting, they have complete disregard—and I am using his language—for the views of their communities.

Again, we will see if the minister meets the test he has set for himself that he will act and deal with this in a very mature and adult way in his portfolio. This involves dealing with local government on this bill. He made this comment in response to a Dorothy Dixier in a question from the member for Davenport, Mr Murray, on 19 June when the member for Davenport asked:

*My question is to the Minister for Local Government. Will the minister update the house on the government's progress towards capping council rate rises?*

Again, I will quote the minister's response from **Hansard**. Apart from other things, the minister said the following about the progress:

*What is interesting about the discussions that we have had—*

and I assume he means with local government—

*and this goes to the central crux of why we need this legislation, is that the nature of the conversation is changing. This cap will be put in place once the legislation passes*

*this parliament. It will, over time, curb the increases that local governments will punish their ratepayers with. It will accumulate, but in the first year it will save tens of millions of dollars, but year on year it will deliver savings year after year to the ratepayers of South Australia.*

He went on to say:

*For the first time in any discussions that we have had—*

I want to emphasise that—'in any discussions'—because it is very important. Again, this reflects the minister's view of local government and all those hundreds of local elected members in our communities right across the state, elected members who members opposite will deal with on a regular basis, and this is what this minister thinks of them. He said:

*For the first time in any discussions that we have had, the local government sector is talking about ways to do more with what they've got.*

I emphasise that he said 'for the first time'. He said:

*For the first time, instead of just going back to ratepayers and asking for more money—and for evidence of that you need only look at the fact that we have had 6 per cent average increases...*

What the minister is saying is that, until he was minister, every councillor and mayor in local government that people across the chamber have known for most of their lives has basically said, 'We just go in there and jack up the rates. We don't care about the community.' That is what the minister is saying. That is exactly what this response is to that question. He has complete disregard for elected members and councillors in this state.

These are people who day in, day out serve their local communities. I am one them; I have done that in the past. I am not trying to defend myself, but certainly those opposite would know many hardworking local elected members in their community, and I am sure from time to time they have praised them. It is interesting that their own minister thinks that, until our minister delivered his sermon on the mount to the people of

South Australia, local councils were actually doing nothing about efficiencies and nothing about delivering services as effectively as possible to the communities. They just went along and had a few tea parties and just jacked up the rates to reflect that.

Personally, I think that is quite an insulting view of local government. It is quite a condescending view of local government and one that is quite wrong. In my time in public life, I have met some really excellent elected members who I actually hold high regard for. This is just a reflection of what this minister believes of local government. He talks about engaging local government. It is interesting, because he tends to give the impression in some of his public comments that essentially local governments are on board. In fact, in one reference he says he has spoken to between 20 and 30 councils, indicating they actually understand why this is important—that is, basically to stop the waste in local government.

I went through the local papers to see what the mayors and councillors and CEOs have said, particularly in the rural areas of South Australia. One thing I do have a high regard for is the rural press in our state. I think the rural press do a wonderful job. People would know my views about that. I have expressed strong views about our rural press and how they do reflect the opinions of their communities and work really hard for their communities.

These are some of the quotes that we have been able to find in the local papers right across the state. In Mount Barker's *The Courier*, which is an excellent paper and an award-winning paper, Adelaide Hills Mayor Bill Spragg said:

I think the capping is blunt instrument. If they want to show we're overspending in certain areas, I'm quite happy for them to go through a process of vetting our budgets.

We put them out for the community to comment and the community can tell us whether or not they think we're overspending.

If the community says 'we think you're spending too much money' and councils

ignore it, then I think, yes, the Government should step in.

Clearly, that is not an endorsement of this bill. Mayor Keith Parkes of the Alexandrina Council in Victor Harbor's *The Times* newspaper said:

*We, like many other councils, work very hard to keep our rates as low as possible and when there's bigger projects to fund, we consult with the community.*

He goes on to say:

*The state government have to realise that the road networks and other major infrastructure are things we really need to do...*

What the mayor says there is contrary to what the minister said. They actually do turn their mind to trying to contain their budgets. They do try to maintain control of their expenditure and they actually are ultimately responsible to the people in the areas. The CEO of the District Council of Barunga West was quoted in one of the leading regional papers in the state, the *Yorke Peninsula Country Times*. He said:

*Council will need to keep any rate rise as small as possible and this will be a challenge, especially with the ongoing pressure to increase the level of maintenance of council's unsealed road network.*

Again, what this CEO is saying is that they actually give a lot of consideration to those important priorities in our community. They need to maintain, particularly in the rural areas, a whole road network of unsealed roads.

Eyre Peninsula is not exactly a bastion of socialism the last time I looked. I think that would be a fair comment. This is what Mr Peter Arnold, the CEO of the District Council of Cleve, is reported as saying in the *Eyre Peninsula Tribune*:

*It has been proven that rate capping does not work. It is not providing any ratepayer benefit and would mean we would not be able to keep up with our maintenance.*

Mr Peter Harder, CEO of the Copper Coast Council, said in the *Yorke Peninsula Country Times*:

*I've told staff we're putting all recruiting on hold this year so that's a loss of jobs in our area already. We might have to cut some programs as well.*

What this particular rural council is doing is very important because clearly the opinion is, amongst the Local Government Association and amongst the community, that rate capping would have a much more negative effect on rural councils than on the metropolitan councils. Mayor Dean Johnson of the District Council of Kimba, again reported in the *Eyre Peninsula Tribune*, says:

*We are opposed in principle to the concept because it will inhibit the ability of communities, in collaboration with their elected representatives, to determine how future local projects contributing to liveability and sustainability will be funded.*

Rod Pearson, the CEO of the District Council of Lower Eyre Peninsula was quoted in the *Port Lincoln Times* as saying:

*The local government sector has consistently been opposed to rate capping on the basis that council rates make up just four per cent of taxes paid by households, while managing significant local infrastructure used daily by local people.*

The Mid Murray Council Mayor, Dave Burgess, was reported in *The Advertiser*—not quite a country paper—as saying:

*It's more time and staff time doing things that could be better spent doing other stuff in the organisation.*

Mayor Ann Ferguson of the Mount Barker District Council was reported in *The Courier* as saying:

*Rate capping is fine for the residents as long as they realise that it will be service capping as well.*

It is interesting to note that one thing the minister has not talked about in this whole debate is the potential impact of rate capping. Mayor Andrew Lee of Mount Gambier says in *The Border Watch*:

*There are some councils in Victoria where they have rate capping where they cannot*

*have a long-term asset management to repair the road. I do not want to see that happen in our community.*

The new CEO of the Wakefield Regional Council, Jason Kuchel, again in the *Yorke Peninsula Country Times*—and I think that would cover some of the member for Narungga's patch—says:

*The irony of rate capping is it will cost each community significant dollars just to meet the anticipated reporting requirements.*

One of the other things this minister prides himself on when he is talking in this chamber, apart from acting in a very mature and adult way and dealing with people in a mature and adult manner, as we have seen today, is radical deregulation. How is he going to implement this program of radical deregulation? By increasing regulation on local councils and by creating a huge bureaucracy for ESCOSA to have more regulations.

This is a classic *Yes Minister* episode. You actually have less regulation by having more regulation. It is interesting, when you apply some of the basic tests the minister himself has set up, in terms of both radical deregulation—and the only one he has tried is trading hours, and that has not gone too far. Even his dad thinks it is a bad idea. What better commentary than your dad's feedback? And secondly, when he talks about councils and what he thinks of our local government, and I will come back to that.

I could go on and on and quote quite a few councils, but just to be fair, and I said I would not try to critique, there are some people who actually said some things that might not be so equivocal at best—not necessarily supportive, but equivocal. I quote Mayor Bob Sloane, from the Barossa Council, who says in relation to rate capping:

*I don't oppose it, if rate capping came in last year, we would have been half a per cent under the cap...It's frustrating but we will work with it...*

'We will work with it'. That is interesting. The other issue is that, despite what this minister has said, when you look at most

councils in more recent times, over the last five years—which gives a better picture of where local government is at—those rate increases that he has suggested are quite misleading. An interesting by-product of this is that some of the mayors are starting to think, 'If we are going to be under the rate cap, we have cover now. We might increase our rates right to the rate cap because the minister and ESCOSA have given us the tick to increase our rates further.' That could be a rather interesting repercussion of rate capping.

Again, when we look at those views, the question arises: how much engagement has the minister undertaken with the local government sector not only in the preparation of this bill but also since the bill? I have been to a couple of events where he has spoken, and they were more a case of lecturing local government than trying to engage them. A more recent example was at the LGA seminar just a few weeks ago when he came in and read 'the gospel according to minister Knoll' and laid out the law. When this whole debate first started, it was in the context of keeping major costs down for householders, which is an excellent thing to do. I think that all governments—it does not matter which level they are at—should try to minimise the cost burden to people in the community.

On the day of the conference, he gave *The Advertiser* an exclusive, which is fine. They gave him a front page. He is quoted as saying, 'Rate capping is about restoring faith in local councils.' With this one wand of having rate capping, it will forever be that every person in this state will have the utmost confidence in their local council. It begs the question: when we have surveys, are people generally quite comfortable with their councils? There are examples of councils whose behaviour and performance are poor, and that needs to be addressed—that certainly needs to be addressed—but does rate capping deal with those issues? I will come to that a bit later.

Some of the things that have been said about this are, I think, quite misleading. As I said, I am going to provide a critique of this bill, so I will provide both the arguments for and the arguments against. I will now quote from the 'Inquiry into local government rate capping policies', an

inquiry undertaken by this parliament last year. This committee took extensive evidence from a range of people in local government. I will quote some of the concerns expressed by the Local Government Association in their evidence to that inquiry, which was back in February 2016, very recently. In that report, the LGA lists the key disadvantages of rate capping:

- contrary to principles of democracy, accountability and independence of local government;
- there are already mechanisms in place under legislation (long term community and financial plans, annual reporting) to inform the community and provide transparency and accountability in budgeting;
- limits councils' ability to provide local services and respond to specific community needs;
- locally based decision making on revenue and expenditure priorities is more transparent;
- can reduce council accountability for rating decisions, allowing the regulator to be blamed for unpopular outcomes;
- increases infrastructure maintenance backlogs;
- restricts provision of new infrastructure required to meet growth needs;
- excessive rate increases unlikely without capping, and community can judge performance at election time;
- does not recognise different needs and requirements of individual councils or different cost pressures;
- does not recognise the impact on council revenue of externally imposed decisions of other spheres of government eg cost shifting, non-indexation of grants to cover population growth and inflation, additional regulatory requirements;
- administratively complex and costly in applying for exemptions;

Certainly, that is the experience of interstate councils. Additionally, it:

- could result in higher uncapped user pays fees/charges which could result in pricing inequities;

However, the report also quotes some of the people who support rate capping. I must confess that not a huge number of people gave evidence to support rate capping. I think the former mayor of Unley gave evidence to support rate capping. I am also aware that he ran for state parliament but I do not think he quite made it.

Some of the key advantages of rate capping according to that report are that it:

- protects rate payers from excessive rate rises;
- achieves the objective of constraining rate increases;
- processes for variations beyond the cap allow councils to increase rates to meet local needs and circumstances;
- provides an independent 'watchdog' function for ratepayers;
- prevents the misuse of monopoly power in the supply of some basic community services;
- helps to restrict council provision of non-core services and infrastructure that might be unsustainable;
- imposes financial discipline on councils;
- manages the risk of poor governance in the local government sector;
- forces councils to become more efficient;
- improves accountability as a result of public scrutiny of applications for increases beyond the cap.

These are some of the things that were said in evidence. These are not the findings of the report; this is the evidence

given to the committee, and the majority of the committee's recommendations were quite clearly against rate capping. There was a minority report, and I think the current Speaker was part of that minority report, if my memory serves me correctly, and so was the minister. It is interesting that the minority report talks about all the things that are wrong with local government, which is appropriate, but it says all these things will be fixed by rate capping, yet there is no evidence in that minority report to suggest a link between the two.

In mentioning some concerns, and one concern expressed to me by a number of councils, I think it is very important that I quote the minister from a report posted by him on 28 May:

*'It does mean we are looking at a gentler cap because we're very clear that we don't want to retard economic growth in any way.'*

The government felt keeping growth on local government's 'side of the aisle' would incentivise and encourage growth within council areas rather than discourage it.

*'We're very keen for that to happen and to give that flexibility to council, especially those higher growth ones,'...*

That view expressed by the minister is interesting because the view expressed to me quite publicly by those high-growth councils, particularly those peri-urban councils, is that this bill, despite what it says, actually punishes high-growth councils. It punishes those councils who invest in infrastructure as a way of attracting private sector investment, these things that create jobs in local communities. In fact, my own council, councils to my immediate south and certainly councils to my north have expressed views about this. One of the gravest concerns about this bill is its ability to punish them for growing, particularly in the areas of industrial and commercial land growth, those areas that actually grow jobs.

The minister goes on to say that the growth factor is taken into account because the provision allows for taking into account new assessments. If the minister had engaged with local councils,

as he promised he would and as he says he has done, he would understand that, in terms of new allotments, that is only one part of growth. The other part of growth is where on one allotment you attract new investment, and you attract factories and shops etc., which are capital growth, but still there is no change in the assessment so you do not take it into account.

Those councils which have quite a strong growth factor—and that is certainly the councils in my region, such as Salisbury, Playford, Light Regional Council and Gawler—and which are trying to attract new private sector investment to boost jobs in these areas, will be punished by this scheme if it is passed. I notice that some members are giving me strange looks: 'How does that work?' Well, that is exactly how it works. If you read the assessments which have undertaken by the various councils and which are in their reports to council, it makes it very clear that this bill will punish those councils for growth. It would be disastrous, particularly in my region, to have something that is a barrier to growing jobs in the area, and this bill will do that.

I think that is a very important issue, which needs to be addressed by the minister and the government, which he needs to communicate. Certainly, we can do this in the committee stage, when he needs to very clearly communicate the link between rate capping and incentivising growth. I have read the bill on a number of occasions, and I certainly cannot see it. A number of council staff, quite senior people in finance and economics, have read the bill, and they certainly cannot see it. For some reason, the minister believes he has greater wisdom than the collective wisdom of all these other people. I suppose that is a very mature, adult way to treat the local government, by saying, 'I actually know more than you people collectively know.'

This bill has some concerns. I have expressed them publicly. As I said, we are still going through the phase of engagement. Our engagement process, as the opposition, is quite genuine. We are engaging with a whole range of people, including researchers and local government, to make sure that we get a full picture and understand the impact of rate capping before we declare our hand.

However, I will give an undertaking that we will be in a position to declare our position by the time the bill hits the upper house for debate.

In closing, I would like to reiterate a couple of very important things. Relationships between governments are very important. In fact, the minister has made a virtue of his relationship with the federal government—the special relationship he has with the federal government. He goes on to say that to have that special relationship with the federal government you need to have a very adult and mature approach to the relationship between governments. I do not disagree with that.

However, I then come back to what he said publicly about local government. I think this is very important because it underpins his view of local governments in this state. It underpins his view of elected members in the 68 councils across our state, those mayors and elected members who give their time to serve their communities, who are embedded in their communities. This is what he thinks of them, and it is important. He says:

I can think of no other sphere of government that can increase its main tax to this level in disregard of the views of their communities.

This is what this minister thinks of local members of councils. He believes that, to a tee, they go out there and disregard what their communities want and do their own thing. That is what he is saying. This is his mature, adult approach to building relationships with local government. The other telling factor, which I will finish on, is interesting because what he is now saying is that local government is quite lucky to have a saviour like him. We are actually quite lucky. In this place, he said:

What is interesting about the discussions that we have had, and this goes to the central crux of why we need this legislation, is that the nature of the conversation is changing.

Since he has come to save local government, the nature of the conversation between the state and local government is changing. He states:

*This cap will be put in place once the legislation passes this parliament. It will, over time, curb the increases...*

*For the first time in any discussions that we have had, the local government sector is talking about ways to do more with what they've got.*

'For the first time'. So, for the last 170 years since we have had local government in the state, this is the first time that local government has bothered to engage with their communities, have regard to community views and talk about how they can do their business better and serve the community. So, we should be thankful that

we have a minister who has come to save us and to save local governments from themselves and deliver this rate capping.

I think that the minister has made very clear what he thinks of local government in this state. He has made very clear his disregard for local government in this state, yet at the same time he talks about how he wants to work with local government—by insulting them, demeaning them and being condescending towards them. If that is a mature, adult approach, perhaps we should look at an alternative.

### *Committee Stage*

In committee.

Clause 1 passed.

Clause 2.

#### **The Hon. A. PICCOLO:**

In response to a question from the member for Davenport in this chamber, the minister stated that this bill would save ratepayers millions of dollars over coming years. What modelling has the minister undertaken and what assumptions has he made to reach that conclusion?

#### **The Hon. S.K. KNOLL:**

The phrase could have been 'millions of dollars a year', or it could have been 'tens of millions of dollars a year', which I think is the phrase I have used a number of times. The broadness and vagueness of that figure would suggest that there is a lot of scope and leeway. To put the maths in very simple perspective, at the moment the local government sector raises about \$1.5 billion a year in rates, and 1 per cent of that is \$15 million a year. So if rate capping were to reduce the growth trajectory and, say, at the moment it is 6 per cent down to 5 per cent, that would mean \$15 million a year saved. That is in one year, and then obviously there is a compound effect of that. The reason that we are at this stage quite broad and necessarily vague about the modelling is

that there is still the work that ESCOSA needs to do with the regulations to further refine and define what this is going to look like. Given that ESCOSA needs to have regard to a broad range of factors, it is impossible at this stage to say what the rate cap would be, and therefore any modelling would be hypothetical in its approach. That said, quite axiomatically, the fact that \$1½ billion a year is collected in rate revenue, saving tens of millions of dollars a year would be quite a simple conclusion that one could make.

#### **The Hon. A. PICCOLO:**

So the answer to the question is, no, you have not done any modelling then?

#### **The Hon. S.K. KNOLL:**

The department and I have been working on looking at a number of scenarios and what that might look like but, again, I think it is a very early stage to be talking about this. Again, any modelling that we would have would presuppose the decisions that ESCOSA would make. Having said that, I think there are very simple calculations that anybody could do that would give a flavour of what this could do.

**The Hon. A. PICCOLO:**

Given the minister's response, are the minister's comments that he made publicly about rates rising, in his view (and I say 'his view' because they are not views that I am necessarily endorsing), by about 67 per cent over the last 10 years—I think they are the comments you have made—if you were to, say, take the last five years rather than 10 years, because stats are useful to perform whatever argument you want to create, how does that change your answer regarding how many millions of dollars would be saved if we took the average rate increases over the last five years rather than 10 years?

**The Hon. S.K. KNOLL:**

The member is asking a very specific mathematical calculation that I am not quite going to be able to do on my feet here. That said, if the member is asking whether it is likely that in the period of five to 10 years ago rate increases were a lot larger and that in the last five years they have been smaller, I can come back to him with an answer on that. That said, the average over the last 10 years has been 6 per cent, and there are certainly years when it is higher than that and years when it is lower than that, but I am more than happy to come back to him with some more information on that.

**The Hon. A. PICCOLO:**

The word 'average' for mathematicians is quite a meaningless term, and given that in local government we have two distinct communities—a rural community and a metropolitan based community—is your 6 per cent based on rural or metropolitan, and what would your answer be if, rather than have your average, you have your median rate increase?

**The Hon. S.K. KNOLL:**

So the question is: is the average across all of South Australia? Yes.

**The Hon. A. PICCOLO:**

No, you have already told me that. I am disputing that. What I am saying is: what is the relevance of the average, given that you have two different communities? What was the median, rather than the average?

**The Hon. S.K. KNOLL:**

I will come back on that specific answer. When state government produces legislation, we produce it for the whole of South Australia. That means that we have to look at the whole of South Australia and the impact that this legislation would have on the whole of South Australia. It is why we included every single council in this—regional and city.

Again, I think I am inferring from your question, member for Light, that there are different groupings of council, and I would dispute that city and metro is the only way to divide up the local council pie. There are those who would be impacted, for instance, by having a higher propensity of social housing, which has specific issues. There would be some who have to operate their own CWMS schemes versus others who do not. There are different levels of service provision across different councils, so each council is going to have its own specific set of circumstances.

When ESCOSA does its work, it is going to have a bias towards a single cap, that is, an instrument that is going to work for many councils. It may not work for a number of them but, in making this work, we have made sure that the variation process is as simple and as low red tape as possible. That is the clear direction we have given to ESCOSA. The clear feedback they have given to us is that that is the way they would like it to happen.

Essentially, we are not going to presume what each of the 68 councils across South Australia is and is not in a financial position to do. We are going to be giving them the opportunity through the variation process to tell ESCOSA whether they believe that the rate cap does not work for them. Instead of ESCOSA trying to presume what individual councils or a group of councils may choose to do, we essentially provide that opportunity through the variation process. As long as we get that process right, that it is as simple and as straightforward and as mirroring to the budget setting annual process that currently it undertakes, that is probably the easiest and most honest way to go about it.

**The Hon. A. PICCOLO:**

A supplementary, if I could?

**The CHAIR:**

You are stretching it, member for Light. Supplementary.

**The Hon. A. PICCOLO:**

It is actually based on the answer the minister has just provided. The minister has just advised the committee the direction he has given to ESCOSA about a preference for a single cap. That is certainly what I heard him say. I was just wondering under which act he gave that direction, given that the act has not passed yet?

**The Hon. S.K. KNOLL:**

I think I said before that ESCOSA is developing the regulations concurrently

Clause passed.

**The CHAIR:**

Before we go to the next clause, I remind the opposition that it is general practice to have three questions from each member on each clause. I was very generous during the first round of questioning, member for Light.

Clause 3 passed.

Clause 4.

**The Hon. A. PICCOLO:**

Will the proposed rate capping legislation lead to a reduction in the rates for ratepayers?

**The Hon. S.K. KNOLL:**

Okay. It is—

**The Hon. A. Piccolo:**

with the bill process. In the discussions that I have had with ESCOSA, we have expressed a preference and they have expressed a preference for a bias towards a single cap. This legislation is enabling. It enables ESCOSA to be able to—

*The Hon. A. Piccolo interjecting:*

**The Hon. S.K. KNOLL:**

Direction can take many forms, member for Light, and sometimes we do not need to use the big stick. We can just have an adult and mature conversation and come to an agreement. Both ESCOSA and ourselves came to the same view and that is that we have a bias towards a single cap because it does not presuppose decision-making that councils should undertake. We also have a strong bias towards a simple low red-tape process.

The Hon. A. Piccolo interjecting:

**The CHAIR:**

Indeed, but it may not continue. You can always get support from your colleagues.

It is quite a simple question.

**The Hon. S.K. KNOLL:**

No, it is not. There is a difference between total rate revenue, rates for ratepayers and a rate in the dollar. What a rate cap will do is curb the increase in rate revenue for councils going forward. What that will mean for individual ratepayers is that, over time, they will see smaller increases than they would normally see. This is based on

the fact that we have seen this 6 per cent average over the last decade.

**The Hon. A. PICCOLO:**

I will call it a supplementary because the minister did not quite answer the question I asked. The question is, to use your own terminology, will the average ratepayer see a rate reduction in their rate notice?

**The Hon. S.K. KNOLL:**

Again, we can talk about averages in relation to total council increases. The difficulty in trying to understand what an average ratepayer is is that there are a number of factors that go into that: rate in the dollar, capital value and councils' differential rate setting. All those things go together towards somebody's rates notice.

When we talk about this piece of legislation, and I think we have said this quite clearly, we do not expect—well, quite logically, councils total rate revenue will continue to increase. It will only increase at a lower rate than it does now in some circumstances. Certainly, there would be those who would be increasing their rates below the cap and who would otherwise not be at all affected by this policy.

There may be some individuals in some circumstances, depending on the combination of factors that I have just identified, who may see a reduction in their rates notice. That may not necessarily be because of rate capping. It may be because of one of the other factors, such as a reduction in capital value, a reduction in a rate in the dollar or a reduction in the variable rate setting by individual councils, depending on what type of property they have.

That is a matter for councils. This legislation is much simpler than that, in that it seeks not to meddle in those affairs. It seeks to set a cap. How individual councils then choose to apply that cap to individual ratepayers is a matter for councils.

**The Hon. A. PICCOLO:**

In a contribution to the chamber earlier today—and I will quote because it is important to lay the basis for this question—the member for King said:

*Last year, I attended a community forum at One Tree Hill, which approximately 400 residents attended to discuss their concerns over a proposed rate increase. This had followed a meeting, I believe, at Angle Vale, which over 500 residents attended with the same concerns about rising council rates. The outcome of these community meetings was a collaboration of residents who voted against, and spoke against, what so many residents believed was an unjustified hike in council rates.*

My understanding is that this quote relates to a proposal by the City of Playford to change their council rating system. My question is: how does this rate capping stop that?

**The Hon. S.K. KNOLL:**

Prima facie, it does not. What it does do is provide impetus to councils—

**The Hon. A. Piccolo:**

But the member for King said it does.

**The Hon. S.K. KNOLL:**

It does in a roundabout way.

**The Hon. A. Piccolo:**

No, it doesn't.

**The CHAIR:**

The member for Light, you have asked your question; the minister is answering.

**The Hon. S.K. KNOLL:**

What it does do is where Playford council seeks to change their differential rating system to jack up rates on one subset of properties within their council area, and where a rate cap is set that is lower than what they otherwise would have sought to recover, to the extent that that then pushes back on the changes that they make in their differential rate setting—and I would like and hope that that would be spread out across the various differential rate categories—that would apply downward pressure on the level of increase that the individual council would seek to achieve.

**The CHAIR:**

Last question on clause 4.

**The Hon. A. PICCOLO:**

So are you saying I have four more?

**The CHAIR:**

No, it is your last question on clause 4. You have plenty of colleagues around you. As I said, the usual practice is three questions on each clause from a member.

**The Hon. A. PICCOLO:**

Thank you for your patience and forbearance.

**The CHAIR:**

It is not going to last, member for Light.

**The Hon. A. PICCOLO:**

Don't be like that. We had such a great start.

**The CHAIR:**

Ask the question.

**The Hon. A. PICCOLO:**

Right. The question is: given the answer the minister has given and given the comments made by the member for King in this place today, which the minister has now indicated perhaps were not quite 100 per cent accurate, is there anything in this legislation under which the minister would give ESCOSA a direction to, or could ESCOSA by its own volition, take into consideration a proposed change in rating policy of the council? In other words, would the minister direct ESCOSA to have consideration for, or would ESCOSA under its own volition consider, where councils cannot change their rating policy vis-a-vis differentials?

**The Hon. S.K. KNOLL:**

There is power for the minister of the day to ask ESCOSA to look at and have regard to a number of things. We do, and we have been very keen as part of this legislation to, give ESCOSA a high degree of independence—one could read that as a low level of political interference. The

minister can ask us ESCOSA to look at and have regard to certain things but, as has happened since councils were formed, councils have had the ability to set their own differential rating systems, and that will continue going forward.

That is not something that this legislation seeks to interfere with. If we did, it would start to create a level of regulatory burden the likes of which councils are seeking that we not impose upon them. What they want is a simple, light-touch system. What we have sought in this legislation, and what we will be making sure comes about through the regulations, is a simple, light-touch system.

It is more than just the differential rating system. Essentially, all the cap does is provide an upper limit for councils in terms of how much rate revenue they can collect. Every other decision that councils make beyond that, as they do now as part of their budget setting process, will continue. The overall drive of this legislation is to provide an impetus for lower increases. That impetus will still be there, but we are not seeking to supplant the individual decision-making processes of councils.

**Mr KOUTSANTONIS:**

On clause 4, can the minister explain why rate capping has not taken into consideration the evolution of differential rate applications by individual councils, and if the government considered that as part of the process while they were formulating this bill?

**The Hon. S.K. KNOLL:**

I think the member for West Torrens is suggesting that we should abolish the differential rate system? That is certainly not something that we have considered, it is not something that the bill contemplates and to suggest that somehow we should be just saying that all rates should be equal across South Australia, which would be what would happen if we abolished the differential rating system, would punish every farmer across the state. That is not something we would seek to be doing. Quite rightly, I think there is a different level of service provision that is provided to different types of properties that would have sparked the differential rating system

in the first place. This government does not want to get involved in that process. We want to provide a broad impetus for lower increases to the extent that that influences councils in the way that they set their differential rates. That is the broad signal we want to send, but councils need to look after, and quite rightly should look after, their own differential rate setting outside that.

**Ms COOK:**

In respect of clause 4, what does the minister consider to be an appropriate contribution by ratepayers to provide these appropriate services and programs to the community?

**The Hon. S.K. KNOLL:**

What this clause seeks to do is to update the objects of the act to include a new clause 'to provide for appropriate financial contributions by ratepayers to those services and facilities'. It is quite broad, but what it is seeking to say is that services are not provided for free. Ratepayers pay for them, and the objects of the act should have regard to the financial contributions made by ratepayers. Essentially, there is always a balance between how much money a council collects and how much service they provide. Implicit in that is the fact that if you can provide the service more efficiently, you do not need as much as the revenue provides.

It speaks to a broader question about the role of government in any sphere; that is, how much money should a sphere of government take from its constituent body? How that has regard to the services it provides is entirely consistent and important, and probably a factor in this debate that needs to be talked about. In fact, a lot of arguments put forth by individual councils have been that people want these services provided.

I accept that, where they provide a basis for the consultation that underpins their making those observations, that is fair, but I think it is also fair to say that we on this side of the house prefer lower taxes. So, what we are seeking to do is to make sure we have regard to the revenue side of the equation as much as the cost side of the equation and that we put an object in this act that allows us and essentially provides

the appropriate impetus for us to have regard to that.

**Ms COOK:**

In regard to the clause and the appropriate contributions by ratepayers, has it been determined what ESCOSA deems as the appropriate contribution?

**The Hon. S.K. KNOLL:**

I suppose the point of this object is to have regard to appropriate financial contributions. That is something we are seeking to insert that does not exist beforehand. Member for Hurtle Vale, to take the question on its merits, you are asking what is ESCOSA's opinion, and the answer is that at the moment they need to have regard to the things that we are asking them to have regard to. I think that is something we give them some direction on later in the bill.

We will get to the clause later on but, in relation to the variation process and the cap setting process, the things they have to have regard to, that is where we are essentially providing them direction from this parliament about what we believe they should have regard to. It is quite an interesting debate that we have had about how much political oversight this process needs to have. ESCOSA are pretty good at setting prices; they do this for a living every day of the week. Essentially, we want to provide them with the independence to be able to do their work unencumbered by political considerations.

However, I do accept that we are providing them with broad direction in this act. There will be direction through the regulations that will become a lot more specific. What is going to happen, and the X factor here, is to ask: what determination is ESCOSA going to make? I think that quite self-evidently we cannot provide that answer until we see what it looks like in practice. The effect of rate capping is not instant and it is not really the first year that is going to have the biggest impact upon councils. It is a cumulative, compound effect and happens over time.

I am very keen to make sure that we provide strong direction to ESCOSA through this legislation, and I believe that we have the right balance. The regulations

will form another part of the direction that this parliament and the executive give to ESCOSA, but we are going to go through, subject to the passage of this bill, a first rate capping process. We will have one cap, one variation process, one budget setting process from councils, and then we will be able to review what the outcome is. I am committed to making sure that, after we have done one full cycle, if there are lessons that have been learned, we fix them straightaway.

I am also very keen to the greatest extent possible to provide some surety to the local government sector about how this is going to operate. However, what we cannot do is presuppose a definitive decision that ESCOSA may come to because they need to go through that process first. We are asking them to look at a whole heap of factors and come up with a decision. It is impossible for us to presuppose the final decision they may come to. I think what is important for us here is to provide them with appropriate and broad direction. That is why this objective says what it says: the objects of the act form one of the things that we think they need to have regard to.

**Ms COOK:**

Ostensibly, in summing up my last two questions, we do not have any real specificity around the rises and what is appropriate and where that might land. Given that, has the minister had any discussions, and can he enlighten us with any thoughts about what might happen if the rises then mean that the ratepayers are paying more for their council rates because it is deemed appropriate, as per the act, and that rates will now be higher under ESCOSA's guidelines because now we have a group of people—ESCOSA and not elected members—determining the price?

**The Hon. S.K. KNOLL:**

There is a difficulty that we will go through. We have a historical context for understanding what councils have done in the past. We have talked about the average increases that councils have undertaken over the past decade. I think we have made our position clear, that it is too high, so we think it needs to come down rather than go up. If ESCOSA were

to come back with a determination that the cap increase for councils should be set at 7 per cent or 8 per cent, I think we would be coming back to this place pretty quickly.

That said, this legislation is not about determining a specific outcome. If we wanted to do that, we would say it is a CPI rise only, and that would provide a very firm direction about where we think it needs to head. We believe that the decision-making process needs to be more complex than that. It needs to have regard to growth, and we have certainly talked about that quite a bit. We think it needs to have regard to costs as they are imposed upon councils. We think it needs to have regard to the broader and economic environment that sits within it.

We are asking ESCOSA to take into account all those factors and everything that is in the act and regulations as they make this determination. However, you are right: sitting here right now we are not giving a level of specificity, but what we are doing is asking ESCOSA to make the best and most balanced decision they can. We are asking them to get to the truth—and I am sure we will get to it in the later part—through the setting of the cap and the variation process, and the truth of this is: what is an appropriate increase? That will be different for different councils.

A council with a very strong balance sheet may be able to do more with that rather than go back to their ratepayers. For a council that has a specific set of extenuating circumstances, it means that it has cost pressures that other councils do not have and it will be different than it will be for a council that is providing a broader range of services. For example, there are a number of regional councils that provide services that metropolitan councils do not have to provide. We need to have regard to that. It is why we have set up this process.

There is a cap-setting process, but essentially we will leave it up to councils to decide whether they need a variation. The cap that we are setting is the upper limit. Councils can do anything below that. The member for Light talked about averages and the difficulty with them. Well, we are going to set a cap. All the councils that have modest increases and sit below that

cap will not be impacted whatsoever. It is basically saying that here is an upper limit. This is again like Robert Frost's path not travelled. We will be going forward into the future asking councils to take different path from the one they hypothetically otherwise would have.

**Mr MULLIGHAN:**

That wasn't in the poem.

**The Hon. S.K. KNOLL:**

It is the road not travelled.

**Mr MULLIGHAN:**

And that has not made all the difference.

**The Hon. S.K. KNOLL:**

Either way, essentially, it is difficult to say that this is where councils were going and this is where they are now going because that is too simplistic. The legislation is not all-encompassing enough to provide that broad framework in order to get to that answer. I think what ratepayers want to know is—and I think the member for Light alluded to this—that ESCOSA will provide some assurance and essentially be a check in the process that will give comfort to ratepayers and that somebody has had an in-depth, independent look at what councils have sought to do.

The Hon. A. Piccolo interjecting:

**The Hon. S.K. KNOLL:**

I am giving you a compliment, Tony; just take it. It is a check that essentially what council has done is appropriate.

We need to set the broad framework. However, if you are saying that we should not do this unless we can provide everybody with a predetermined outcome of what the cap might look like, then this is all a waste of time and we should just set a cap. I do not think we want to go down that path because we know and understand that we are seeking to get towards the truth—that is, what is an appropriate increase that council needs to be able to maintain and deliver services? But have they actually looked at the cost side of the equation and are they doing things or prioritising the service delivery as

efficiently as possible? That is why we have headed down this path, not with a predetermined outcome in mind but trying to make sure that ESCOSA is asking the right questions and that, as councils answer them, we get to the answer, which is: what is an appropriate increase that a council should be allowed to undertake?

**Ms HILDYARD:**

Minister, also in relation to clause 4, the member for Davenport spoke earlier this afternoon about a number of issues that the City of Onkaparinga has had, as you know, relating to their use of funds. How will this legislation absolutely ensure that council rates collected are appropriately spent?

**The Hon. S.K. KNOLL:**

This piece of legislation cannot fix every problem within local government, and we haven't pretended that it can.

The Hon. A. Piccolo interjecting:

**The Hon. S.K. KNOLL:**

It will restore faith in councils. It is a first step along a journey. To answer the insinuation in the member for Reynell's question is to say, 'How can state government intervene and make sure that local government is doing their job properly every single time?' Local government is sovereign in its own sphere. This legislation seeks to provide broad impetus, but I think, as the former minister for local government will understand, the power of a minister to intervene in local government matters is quite limited. That is appropriate. Unless South Australians want the state Minister for Local Government to essentially be the referee for councils on individual decision-making, then we need these bodies to be able to make the decisions. There need to be appropriate balances.

The answer to your question, 'How can we make sure councils spend their money appropriately?' is that we need to make sure that appropriate safeguards, checks and balances are in place. The ICAC, the Ombudsman and the Auditor-General already have the ability to look into the processes of local government and, where it is deemed appropriate, they can

investigate certain matters to ensure probity. For instance, in relation to Onkaparinga, the Ombudsman is now looking into credit card matters and those kinds of things. That is the most appropriate way to deal with that.

This idea that the state government should just take over local government is not correct. What we are doing through this is providing broad impetus and broad direction, but local government is a sovereign sphere in its own right and should be free with the appropriate checks and balances to make its own decisions.

**Ms HILDYARD:**

I do really want to ask the minister how many steps he envisages being on the journey that he has spoken about—

**Mr TEAGUE:**

Point of order, sir.

**Ms HILDYARD:**

—but I will not ask that question.

**The CHAIR:**

Member for Reynell, there is a point of order.

**Mr TEAGUE:**

I have not followed every moment of the debate, but I wonder whether the member has declared a conflict of interest. I understand the member is a member of the Australian Services Union that has a declared position against rate capping.

**The CHAIR:**

Does the member for Reynell feel that she has a conflict? If she does not, she does not need to declare it. If she does, she needs to declare.

**Ms HILDYARD:**

That membership is listed on my Register of Members' Interests.

**The Hon. D.G. PISONI:**

So what have they told you to do?

**The CHAIR:**

Member for Unley!

Members interjecting:

**The CHAIR:**

Order!

**Ms HILDYARD:**

I do not think you heard what I said.

**The CHAIR:**

I did not hear what you said.

**Ms HILDYARD:**

I said that all my memberships are appropriately listed on my Register of Members' Interests.

**The CHAIR:**

Suitably declared. Thank you. The member for Reynell.

**Ms HILDYARD:**

Minister, in relation—

Members interjecting:

**The CHAIR:**

Order! Member for Reynell, ask your question please.

**Ms HILDYARD:**

Thank you, Chair. Minister, how would these objects outlined in clause 4 be utilised to ensure that rates collected are directed to services and facilities that benefit community members?

**The Hon. S.K. KNOLL:**

The object is the object—and a neat little tautology answers the question. Genuinely, it is an object within an act. It provides a broad statement of the way local government should operate. You are asking essentially how will ESCOSA in this case, because they are the ones making the decisions, determine whether or not councils are spending their money

appropriately? ESCOSA in this instance is not a proactive body.

What will happen is that a cap will be set, a council will apply for a variation process, and it will be through that variation process that ESCOSA will make determinations about whether or not councils are providing an appropriate level of service. Essentially, it is through that back and forth that ESCOSA will make that decision, but ESCOSA is not here to tell councils what they can and cannot do. What ESCOSA is here to do is to approve a variation process.

As you will see, and I do not want to spoil the ending on future clauses, through this legislation we tell ESCOSA through the variation process that they have to have regard to a number of things. If councils can tick off and show that they have met those thresholds, then they will get their variation. But again, we Liberals on this side of the house try to be light-touch regulatory legislators wherever we can. We are attempting for this legislation to just breeze over the top.

Genuinely, we are not here to become the referee on every single decision that local government and councils seek to make. What will happen is that the only time that ESCOSA will make a decision is where a council seeks to make a variation application to the cap. In that instance, there is a set of thresholds at that point ESCOSA will make a determination. With regard to the object in clause 4—'appropriate financial contributions by ratepayers to those services and facilities'—it is a broad object that will form part of the decision-making process that ESCOSA will go through, but it will be a lot more nuanced than that, as we will see as we get closer towards the final chapter of the book.

**Ms HILDYARD:**

Minister, how will you guarantee that services and facilities are not reduced by rate capping?

**The Hon. S.K. KNOLL:**

I find this degree of absolutism to be a little bit disingenuous. In the absence of rate capping, the state government has no ability to ensure that councils do or do not

cut services. They are matters for individual councils. But I would say this, and I would repeat this for the 200th or 300th time: rate capping will not send revenue backwards for councils. All it will do is limit the rate of increase for councils going forward, so what we are going to see over time is what I think the current government, as well as the former government, would call an efficiency dividend. We would call this a savings task.

There was much of it put into the midyear budget. That is essentially what we are talking about: providing the impetus for looking at how councils operate and on a year-on-year basis finding ways to do their job more efficiently. I think that there is a fearmongering in the community, and certainly from the ASU, that this is going to see a severe cut in services. It will not. Revenue will not go backwards: it will go forward at a slower rate. We think that that is appropriate,

It does not provide that somehow councils' revenue is going to fall off a cliff and libraries are going to close as of 1 July next year. What it means is that they are going to get more money than last year but potentially less money than they would otherwise have got without it. What that does is appropriately provide an impetus for change but at a rate going forward that gives us the time, the opportunity and the impetus to look at the cost side of the equation and find ways to do things better.

**Mr PICTON:**

I was staggered, when I was sitting in my office a moment ago and tuned into this debate, to hear the minister on his feet talking about the City of Onkaparinga, which is of course where I live and where all my constituents are based.

**The CHAIR:**

Do you have a question?

**Mr PICTON:**

I do. My question is that I understood that he basically said to the parliament that this bill would not have an impact in terms of the scandals that we have seen at the City of Onkaparinga, in terms of the credit card expenses, in terms of the golf fees, in

terms of all the problems that have been there. He basically said, 'They are a sovereign sphere of government. This is not designed to deal with that.' I compare that in my mind to when we had the member for Unley trotting out with golf putters and things like that, saying this bill was the answer.

**The CHAIR:**

Member for Kaurna, this is not an opportunity to make a speech. Could you ask a question, please?

**Mr PICTON:**

Is the minister saying to residents in the City of Onkaparinga that previous comments by the Liberal Party that this bill would have an impact upon the sorts of expenses problems that we have had in the City of Onkaparinga are false and that actually there is going to be no impact whatsoever?

**The Hon. S.K. KNOLL:**

I think members opposite need to decide which way they want to have it: either it is the death of all councils and everything being cut to the bone or it is not going to do anything. You can have one of those arguments, but you cannot have both. I think you need to decide which side of the coin you want to flip and which one you want to land on.

In relation to discussions we had before about differential rate setting, in relation to discussions and questions we have just answered, what this legislation will do is provide a broad impetus. It will not seek to run a ruler over every single spending decision that councils will make. This piece of legislation is only the beginning of the reform process that needs to be undertaken.

I refer to the LGA's own election document that talked about greater levels of transparency and accountability and greater auditing processes that will help and add to this to provide greater confidence in the way that councils spend their money. I think that is an extremely important question. What I have said twice now publicly to the local government sector and have certainly said to the LGA itself—I have said it to councils that will

listen—is that this is the first stage in a process. After this will come a broader local government reform agenda.

What I also find extremely disingenuous is the fact that, over the last four years, the former government had the greatest opportunity to deal with these issues and did not. We have committed to working with the local government sector on a broad reform agenda. There have been 16 years of opportunities to get this done, but again we are talking about a specific piece of legislation. It does what it does and it does not do what it does not do.

**Mr MULLIGHAN:**

That is so insightful.

**The Hon. S.K. KNOLL:**

Again, a neat tautology. This is the beginning of the process. The member for Kaurna will fondly remember from times past when we were both humble backbenchers debating each other in InDaily that this is a topic of discussion. In that insightful missive, I said that rate capping is not an end in itself; it is the impetus for changing the conversation that is had. What this does do is force us and force councils to look more closely at the cost side of the equation in a way that state and federal governments have to quite naturally, because our taxation base is not as stable and forgiving.

Rate capping is only the start: it is not the end. In relation to issues at Onkaparinga, in relation to differential rate setting out at Playford, in relation to whatever ills those opposite feel exist within the local government sector, we are committed to working through ways to fix that. We are actually willing to progress those things rather than just bench our local government minister, sit him off to the side, pat him on the head and forget about it. We are actually keen for reform.

Members interjecting:

**The Hon. S.K. KNOLL:**

And I have said that publicly. I have repeatedly said it publicly, and I genuinely look forward to that task. The feedback that I have had, whether councils like rate capping or not, is that they are hungry for

change. They know they need to change. They know they need to improve the way that they do things, and they have a whole heap of ideas about how to do it. We are in for looking at all of those ideas. No idea is off the table. That is in stark contrast to the past four years, when very little happened, and I would ask members opposite to reflect on that as they ask these questions.

**Mr HUGHES:**

Taking into account the appropriate financial contribution by ratepayers, how will you take into account the history of rates in a particular community in the setting of the inaugural base standard? I have heard you mention a period of 10 years, but sometimes there is a major legacy effect when it comes to the setting of rates, especially when it comes to long-lived infrastructure for which councils have responsibility. How are you going to manage that?

**The Hon. S.K. KNOLL:**

That is a fantastic question, member for Giles, and it is something that we have been considering quite closely over the past few months. How do we, in setting a rate, cap? Do we deal with a lot of the legacy issues that exist within councils? I think that rate capping is coming along at exactly the right time. You talk about the 10-year time frame. The last 10 years have also been the 10 years in which councils have had to have regard for long-term financial management plans and long-term financial strategies for the way they do things.

I think that councils are now in a better place to deal with rate capping than they were 10 years ago, and the structures and budget processes they have in place mean that this process is not going to be anywhere near as onerous as it would have been if they had not undertaken that task. The real answer to your question is: ESCOSA cannot, between now and 31 December, look at the potted history of all 68 councils to understand where they are in terms of their financial strategy and their financial strength. What they will do is set a cap, and that cap will look forward at the current cost pressures and the current financial situation when determining the cap.

I think we have to assume that councils over the past decade, and over the life of councils, have sought to put themselves in a balanced financial position. Where they have not, that is why we have a variation process. As part of this legislation, we provide ESCOSA with the ability to set a cap for a group of councils or an individual council. We do not expect that power to be used that often. There may be a specific example going forward. I use the example of the transfer of social housing to community housing providers, where the 75 per cent rate reduction provides a discrete financial impost upon a group of councils. That may be something that ESCOSA could look at specifically.

The group of councils affected by China's National Sword policy may have a specific set of circumstances if ESCOSA says, 'This is significant enough for us to probably need to give you some decent leeway.' But at the end of the day, ESCOSA setting a single cap is in recognition of the fact that councils are still masters of their own destiny. If they believe they need variation, then it is up to them to come back to ESCOSA, rather than ESCOSA try to predict what a council may choose to do. I think that it is a lower regulatory way of going about it, both from ESCOSA's point of view and from a council point of view.

You may have a situation where two councils, side by side, have the same cost pressures, but one has a very strong balance sheet with money in the bank and the other is destitute and on its bones. These councils would take that cost pressure and deal with it in two different ways. One might ask for a variation, and the other one may say, 'We are probably strong enough to absorb that.'

We want councils to make those decisions and present the case to ESCOSA, rather than ESCOSA doing a whole heap of work that it otherwise should not do, on a potentially wasted prediction. That is incumbent on councils coming back. There are probably some legacy issues. Some councils are financially stronger than others, and we want that variation process to be the appropriate outlet to deal with those issues.

**Mr BROWN:**

My question to the minister is about the variety of different councils that have different strengths on their balance sheets, for example. In my electorate, Salisbury council has done a great job in investing in utilities such as Salisbury Water and also the northern area's Waste Management Authority. Does the minister see that ESCOSA will take into account the strength of those utilities investments that councils have and take into account the revenue the councils receive from those investments?

**The Hon. S.K. KNOLL:**

That is, again, part of the nuanced process. It is why we push it back on councils to come to ESCOSA to apply for a variation. You are right: there are councils that have revenue sources outside of rates revenue that prop up their balance sheet. Again, I do not want to tend us forward because I think we are all having fun on clause 4, which is just a simple little broad object. The variation process does—

**Mr BROWN:**

We will get to that.

**The Hon. S.K. KNOLL:**

But it answers your question. Paragraph (h) provides:

*how the proposal is consistent with the council's long term financial plan and infrastructure and asset management plan under Chapter 8 Part 1;*

Essentially, what that is saying is that if you have a cost pressure you do not think you can deal with, come to us and talk about it, but we want you to have a look at your revenue sources, the financial strength of your council and your long-term management plan about how you are going to deal with that. If you think you cannot deal with that as a part of that and you need the variation, then sure, let's talk, but you have to have regard to that first. Each council is different. You talk about the extra utilities the City of Salisbury deals with: that will need to be taken into account as a part of the variation process.

Clause passed.

**Mr BROWN:**

Is the minister saying that councils will be asked by ESCOSA to consider potentially liquidating their investments in things such as utilities in order to pay for unexpected cost pressures before they can apply to have the cap moved?

**The Hon. S.K. KNOLL:**

Can you just repeat the first part of that?

**Mr BROWN:**

Is the minister saying that ESCOSA will be asking councils to consider liquidating their investments in utilities before they can look to have their cap moved?

**The Hon. S.K. KNOLL:**

Not necessarily. ESCOSA is going to make a decision: do we give you the variation or do we not give you the variation? That is quite a binary answer. I do not think they are going to go back to councils and say, 'You have to flog off the golden goose because we are not giving you any money.' That is just not what ESCOSA's job is. Essentially, councils will present some information and ESCOSA will look at it and say yes or no.

With their revenue sources outside of general rates, councils already have a degree of capping in place. As part of the act, what they need to do is cost recover as part of those services. Where they separate out a specific service, that can only be done on a cost recovery basis. So there are already some natural caps within the system outside of general rate revenue, but ESCOSA is not going to sit here and essentially dictate to councils what their long-term financial management strategy needs to be. They need to come to ESCOSA and prove that they have had regard to those things and that they do have a long-term financial management strategy and the cost pressures that they have sit outside of their ability to provide those services.

Clause 5.

**Ms HILDYARD:**

Just last week I was at a council meeting at the City of Onkaparinga and they had a very lengthy debate about their requirement to hold a community meeting to seek community input into their annual business plan. How do you envisage communities having meaningful input into this new aspect of annual business plans?

**The Hon. S.K. KNOLL:**

The same way they do now. The interesting thing is what we have sought to do through this legislation, and we will seek to do through the regulations, is for this cap setting process and the variation process to sit very much alongside the annual budget setting process that councils already have to undertake. We are on to clause 5, are we not? Is this part of clause 5? I do not want to upset anybody by moving too quickly. Paragraph (d) of the variation application provides:

*the community engagement process that has been undertaken by the council on the proposed varied rate cap;*

What that says is that you have to show us how you consulted with your community. Under the current budget setting process of council they need to go and consult with their community. They need to show ESCOSA that they have done that. We have quite specifically not said in here that councils need to get endorsement from their community for a proposal. What it says is you need to talk to your community. It is one part of a series of things that a variation application will seek to do. You will notice with most of them that they do mirror the budget setting process that already exists.

**Mr MULLIGHAN:**

I have not followed the council budget setting processes assiduously as the member for Schubert has. Could he perhaps, for my benefit, explain the process, as he sees it, of a council both considering a draft budget and then a business plan for consultation with the community, which is, as I understand it,

the process that occurs at the moment, and how that process will integrate this new application process to the Essential Services Commission, if necessary, for a variation?

**The Hon. S.K. KNOLL:**

The cap is set on 31 December. That sends a signal to councils about what the upper limit for their increases can be for the year. Councils have between that date and 31 March to apply for a variation. Under council's normal annual budget setting process and under the act, councils are required to adopt an annual business plan and budget between 31 May and 31 August, except in a case involving extraordinary administrative difficulty. Between 31 May and 31 August they go through that normal consultation process. They have until 31 August to finalise and declare their general rate for a particular financial year. So at the moment, they undertake consultation during that period.

Councils may decide to bring forward some of that consultation process before they seek a variation to the cap. When they do put out a draft business plan, if they are considering going for a variation, we think that needs to be included as part of the draft business plan. They need to let the community know about that. Certainly, later on, as part of the variation process one of the thresholds is that councils have to show how they have consulted with their community. That may mean that they bring forward some of that consultation to before the variation process is put in place.

Having said that, we essentially give councils from 31 December to the end of March to decide on a variation. They then get that decision. That decision then informs a more final version of their draft business plan that they then go out and consult on. This may mean that they choose to consult earlier, this may mean that they need to consult a little bit more often, but essentially it is the same process. To a large degree it is up to councils to go to ESCOSA and show how they have done that rather than ESCOSA being prescriptive about how they do that.

**Mr MULLIGHAN:**

I appreciate that, because it does clarify it for me somewhat. So, to establish the process, I guess, in a linear sense, between 31 May and 31 August, in the calendar year preceding the financial year where the new rates are to be set, the council considers its draft budget, for want of a better term, and that consideration by council somehow informs the cap, which is set by ESCOSA by 31 December, and then, after the consideration of that cap that ESCOSA has set, a council has another three months until the end of March to, if it sees fit, apply for a variation, etc., and then that is roughly three months out from the beginning of the financial year where the rates will apply. Did I get all that correct?

**The Hon. S.K. KNOLL:**

Yes, but essentially what councils may choose to do, where they decide that they are going to seek to undertake a variation, is bring forward their consultation process and essentially release a draft business plan and a draft budget, for instance, that says, 'Well, if we apply for a cap or we're going to apply a cap, and if we get a variation we'll go in this direction, and if we don't get a variation we go in this direction.' So there is the opportunity to make sure that consultation happens at a singular point in time, but essentially that really depends on whether a council is going to seek a variation, what that looks like, and the different decision-making process that the councils may go to, depending on the outcome of that variation. In the broad, you are talking the time line, yes, that is right.

**Mr MULLIGHAN:**

So, on the basis that we are discussing a period of time in an environment where this legislation applies, say, a couple of years down the track, a set of rate notices have gone out for the new financial year, with whatever the rates are that are applicable for that financial year, but preceding that financial year from 31 May to 31 August the council is already giving thought to the subsequent years' rates setting, and in that first six-month period, indeed in that first two-month period of that financial year, by 31 August, they need to make some initial decisions and inform

ESCOSA what they are intending to do so that ESCOSA can set a cap by 31 December. If I have that right, how does the council inform ESCOSA of the deliberations it has made between 31 May and 31 August?

**The Hon. S.K. KNOLL:**

I think there is a level of confusion there. We will get to this in relation to clause 6. There is a base standard year, and then there is the cap year, so they are two separate things. If I take you on a time line: let us take 1 July 2018, that is year zero, the big bang has happened. We get to the end of that year. ESCOSA looks backward at council cost pressures over the time; it also looks forward and tries to predict and look at cost pressures going forward.

On 31 December it sets the cap for the 2019-20 financial year. So, we are looking at 2019-20; councils then have from 1 January to 31 March, again the 2019-20 financial year, to decide what they are going to do there. They get a determination on the variation, they then set their final budgets.

There is nothing specific or special about 31 May to 31 August that ESCOSA is really going to look at in any real way, because it is looking again towards 31 December. It will look backwards and it will look forwards, but it is also not going to do that on a council-by-council basis necessarily; it is going to look at that on a macro level. But, in relation to how councils essentially provide rates notices for the financial year that started where they only have to decide on their business plan by 31 August—they will do that as they currently do it—but I will ask—

We should think about the situation we are in right now, in the sense that most councils set it before 30 June, so it starts with the new financial year, but if you think about this year, for instance—we are not bringing down our budget until 4 September, but it kind of sort of started back on 1 July, it is exactly the same process.

**Mr MULLIGHAN:**

It's not very clear.

**The Hon. S.K. KNOLL:**

But rate capping doesn't affect that. That is something that currently exists under the current act.

**Mr MULLIGHAN:**

I realise I have had three questions but if I could seek the indulgence of you and the minister.

**The CHAIR:**

Keep in mind that we have a fair way to go on this; we are not half way.

**Mr MULLIGHAN:**

Yes, I know. I am grateful to the minister for outlining the process because that has clarified it somewhat for me, that looking at the current financial year ESCOSA will establish a base cap or a base rate by 31 December, and then a council has three months to apply for a variation to that. My question is: when is it envisaged that the business plan will go out from the council to inform the community about how it stands in relation to the cap issue by 31 December?

**The Hon. S.K. KNOLL:**

Now we are going to get very technical. We need to separate it out and, correct me if I am getting this wrong, member for Lee. There is the calculation of the base standard year revenue for a council and then the cap that applies to that, and an annualised rate revenue. The whole thing that goes into the calculation of the cap for an individual council is a separate process from the determination that ESCOSA needs to make in relation to the cap. So ESCOSA has until 31 September.

They can actually make the decision earlier, but there is a whole heap of competing information from CPI, local government CPI, and specific cost pressures that exist in the local government sector—all those things that we are asking ESCOSA to have regard to when they set the cap. They will be pulling all of that information in, and they will make a decision at a point in time based on all the information that they have. They will not be relying on a data set for a discrete period; they will use all the

information they have got and, at the point they set the cap, it will be based on everything they have regard to.

When we talk about the way in which we determine the cap for an individual council, that talks about discrete points in time or discrete financial years, so you have one year that is the base standard year, and you then have the capped year. The base standard year is back there, and the capped year is in front. But that is a calculation for an individual council. ESCOSA is not really going to be looking at that when they determine the cap. They will be looking much more at macro issues and industry-specific issues when they determine that cap for the state. If they have a group council cap or an individual council cap they will be doing that as part of that, and as a subset of that process.

It is good to try and divorce the idea that the calculation of a cap as it relates to an individual council can be a point-in-time thing based on two discrete financial year datasets, and is different from the very broad macro decision that ESCOSA is going to make when they set the broad cap for the state.

**Ms COOK:**

It is my understanding then, minister, that it is conceivable that a council really has to go to consultation with the community with two very different budgets in mind because they cannot pre-empt the satisfaction of their case to ESCOSA to provide a variation.

If they have plans given X dollars, they will have to go to consultation, and then they may have to do X minus the variation that they are asking for, which, based on a council budget of nearly a quarter of a billion dollars, like the City of Onkaparinga, may be a significant community infrastructure project, which is the 'minus the variation'.

**The Hon. S.K. KNOLL:**

I will just get this right in my head. The start to your question was, 'Is my understanding right?' That is a matter for you, member for Hurtle Vale, rather than a matter for me, but I will seek to talk at you, and how that is computed by your brain is a matter for you. Essentially, councils have

until 31 March to lodge a variation. If they are ready to go, they can lodge it on 2 January. What they may try to do is get a variation determination earlier and then potentially go back out. There is a great degree of flexibility.

If council's primary concern is, 'We only want to consult once,' then you go down the fork in the road path and say, 'This is what we will do if we get this. This is what we will do if we get that.' In other words, 'If we get the variation or if we do not get the variation.' I think councils are going to naturally have to have regard to that anyway because they do not know whether they are going to get a variation before they apply for it so they will naturally be thinking in their own minds, 'If we get it, we can do this, and if we do not we will have to do this.'

In relation to specific projects, with all the things you were talking about they will need to look at both outcomes as being potential reality and need to understand what that means for their service delivery, as they currently do. If there is a concern that they are going to have to make a whole heap of changes if they do not get the variation, then that may encourage them to seek to try to get a variation earlier along in that three-month period so that it gives them more time to figure out what it is they are going to do post that variation approval process.

**Ms COOK:**

Given that, if councils with those types of budgets are looking at doing infrastructure projects that might be in the tens of millions, they would do that over a forward estimates period of a few years. Who is to say that they are given their variation request in the year 2020 and then they might not be given it in 2021-22 based on ESCOSA's findings, or can they get a forward approval of their estimate?

**The Hon. S.K. KNOLL:**

Are we on clause 6? We are still on clause 5. Again, I do not want to ruin the ending of the book, but new section 187F says that councils can seek a variation for up to five years. Councils have to set a long-term financial management plan. Councils are, by their very nature, capital-intensive businesses. They have a lot of

depreciation and they have a lot of assets. Assets come on fresh and new at one end and they slowly depreciate over time.

Councils, by their very nature, have to take a long-term view about the way that they go about their business because the decisions they make about the point at which they deliver infrastructure have long-term implications for their budget setting because of the depreciation process. The 10-year long-term financial plan setting has asked them to orientate themselves in that direction.

When I first thought of this, I thought of an example. In the Barossa, they have been developing a big project. They have put together about \$50 million worth of infrastructure projects— recreational, sporting, culture, arts and some infrastructure stuff. They have packaged it all up. They have been consulting with the community on this thing for a couple of years.

In my mind, I thought, 'Well they will just come to ESCOSA to get that as a variation.' However, they are not going to come to ESCOSA and say, 'We want all that revenue in one year.' They are going to look at how they deliver that over time, the points at which they deliver that infrastructure and put it on their balance sheet over time, and over what period they recover the cost of that infrastructure from their ratepayer base.

As we understand, you cannot go to a ratepayer and say, 'This year, we are going to pay for the new swimming pool, which costs \$5 million. That means your rates this year will go up by \$200 each, but we will pay it off in one year and then after that we will put it back down.' Quite necessarily, it is going to be how they structure it as part of their long-term budget setting process.

It is why we have said that councils should apply for variation for up to five years. I get the feeling that that is the way that councils are going to head. The larger infrastructure projects that may cause them to seek a variation are not going to be things that can be dealt with as part of the budget in one year. It is going to be a long-term strategy. In order to smooth out the pain and to smooth out the cost

increase to their ratepayer base, they will do it over a period of time.

The best example, again in the Barossa, is the very controversial development of a sporting and pool facility. There was a separate rate imposed for a specific period (I am lucky that I bought my house in the year they finished the payments), but it was a long, five or six-year period over which they sought to recoup that money separately from their ratepayer base. They spent the money up-front and recovered it over time. That is exactly what we expect them to do now, and it is why we have allowed them up to five years to be able to seek an increase or a variation.

**Mr BOYER:**

Minister, in relation to the answer you gave to the member for Hurtle Vale earlier, when you talked about the need for councils to plan for the long term, what I am not clear on is, under the rate capping regime, how we can actually expect our councils to plan for the future in a more strategic way when they are not going to have any certainty around the rate revenue they are going to receive, given that they are going to be dependent upon determinations from ESCOSA.

**The Hon. S.K. KNOLL:**

There are two answers that I would give. The first is that ESCOSA want to publish a set of methodology about how they are going to go about setting the caps. It is a little bit like the GST formula, where the state government will interpret what they think the federal government's determination on GST is going to be. There may be some variation to that, but in the end we sort of have an idea of which way things are going to head.

Inflation is really high and wage inflation has been higher. In the past, ESCOSA have taken that into account and we have delivered this result. We are really talking about degrees here. ESCOSA may bring down a 2½ per cent, or we think it is going to be 2½ per cent, but in the end it is 2.7 per cent or something like that. We are talking about really being at the margins.

The second point I would make is this: state and federal governments, which I think we would all consider are bodies that

are also capital intensive, spend a lot of money on infrastructure. The federal government just gives away a lot of money to be spent on infrastructure. Our taxation base is a lot more variable than that of local government. Council rate revenue is as stable a revenue source as it gets.

As the shadow treasurer, the aspiring treasurer, would well know, stamp duty and payroll tax fly with the wind. Income tax and company tax rates for the federal government go up and down according to the economic cycle and provide huge levels of variation in income. Councils have this very steady state source of income and, dare I say it, I think that they have relied on the fact that they have this existing capital base that they can tax, and they know that if they tax it more they will get that revenue with a much higher degree of certainty.

They do not have to have regard to how their rates revenue is going to provide an expansionary or contractionary effect on the economy more broadly and how that is going to affect the tax take. We are talking about the Laffer Curve. Is there an economist here?

**Mr MULLIGHAN:**

We have seen *Ferris Bueller's Day Off*.

**The Hon. S.K. KNOLL:**

There you go. Can I say that state and federal governments have to deal with a much greater level of variability to our income base than anything we can put onto local government.

So if we can deal with it at a state government level, and if the federal government can deal with it at that level, councils are not going to have that same problem. Again, all we are talking about is an upper limit to which they can increase their rates. There will be a lot of councils that will sit underneath that. They will not care about rate capping. It is only those that want to go above that. Again, we have set this so that councils can, over a six-month period, come to a decision about their forward planning on infrastructure provision.

I really do not see how this is going to provide a level of variability. It may provide

uncertainty, but it is going to provide uncertainty at the margins. The member for West Torrens would deliver his Mid-Year Budget Review every year, and you would see payroll tax written off by \$100 million; land tax not so much because that is the same base; and stamp duty taxation written off because what they thought it was going to deliver and what it actually delivered were two completely different things. Local government do not have that problem. They have a very high degree of certainty—they know the income they are going to get when they start. So this will have a very marginal impact.

Again, if we are talking about a cap, let us say a cap is 2½ to 3 per cent, say 3 per cent. Councils will be asking for a variation of half a per cent, 1 per cent, 1½ per cent. We are talking very much at the margins. There is still a huge level of stability in the income base of councils. This is all about long-term drivers for reform.

**Mr BOYER:**

I take your point that state and federal governments probably have more variability to contend with when budgeting than councils have historically, but based on the answer you just gave, is it not true that we are in that sense then inserting some more variability into the long-term planning that councils are going to have to do under a rate capping regime and therefore there will be less certainty in terms of long-term planning that councils can do under a rate capping regime than there currently is? It may be less variability than state and federal governments have to contend with, but it will be more variability than local councils currently have to contend with in a system where there is no rate capping.

**The Hon. S.K. KNOLL:**

At the margins, sure. This is going to have an impact on the way that they do business, but that is exactly the point. We want it to put downward pressure on the rate increases going forward, and that is genuinely the point. But the way we are seeking to implement this legislation is that it is done in such a way that gives councils long lead times, that gives them a great degree of methodological certainty and that provides them a process with rigour that essentially asks them to answer the

questions about how they are going to deal with the uncertainty as part of the process anyway.

Again, this is about shifting the conversation from just looking at the revenue side of the equation to looking at the cost side of the equation. That is where I think we are going to head. I keep talking about the impetus for reform. You have costs and you have revenue. At the moment the revenue just goes up to meet the costs. If your revenue cannot just go up to meet the costs, you have got to look at your cost base. We have not hidden the fact that we want to look at the cost base. We as a state government want to help local government look at the cost base.

I note the work that the LGA has done already and some of the announcements they have made in recent weeks in relation to the provision of legal services and in relation to their professional indemnity insurance. That is looking at the cost base. Councils at the moment spend \$2.2 billion a year. That is \$2.2 billion worth of costs that we can seek to do better with. If we cannot find 1 per cent or 2 per cent of that year to do more efficiently, given the rate of technological change that exists within our society at the moment, then we are not doing our job.

There is so much ability for councils to do what they do better and for us to help them do it that rate capping is not going to be the end of the world. In fact, I think it is going to be the thing that will get us to start asking the right questions—and that is how we do more with what we have. And \$2.2 billion is a lot of money, and it is only an absolute fraction of that that we are seeking to change through this rate capping process. That is our challenge.

There are so many ways for us to save and be more efficient. In the end, like most things, once this is in place, it will not be the biggest and scariest thing that people will ever see. It will just be part of the way we do business going forward, and we will change the culture of the way we answer the question of how we make the budgets add up.

**Mr HUGHES:**

When a councillor applies for a rate cap variation, what weight will ESCOSA apply

to the quality and the nature of the community engagement process?

**The Hon. S.K. KNOLL:**

That is a very difficult question to answer, member for Giles. We are sitting here in the lower house putting through a piece of legislation—and I can feel the frustration of members opposite, as I am sure many on this side of the house who were here before March felt, that you put legislation through without having the regs that sit alongside it. That is the way that it went for almost every single piece of legislation that we put through.

This has been a different process. I will give you one small example. In 2016, we put through a planning development infrastructure bill that turned into an act. I am still developing regulations for that piece of legislation two years later. When the bill was being drafted, when the Office of Local Government team were putting this thing together, we said, 'We can't wait until the bill is finished or until it has gone through the parliament before we start the regs. We are starting that now.'

My hope is that, through the course of the midwinter break, all the information that ESCOSA can provide to put on the table to help members opposite or their colleagues in the upper house come to a decision will help to inform the process. Again, we will not be able to presuppose the outcome before the outcome happens because it is too multifactorial for us to be definitive.

What I can commit is two things. Number one, every single bit of information that we have in relation to how the regs are going to be drafted and formulated that we can put on the table by the time this gets to the upper house I am committed to putting on the table. Secondly, rate capping will not provide the biggest impetus in the first year, but it will have a compound effect. The first year is not the biggest problem; it is in 10 years' time.

What I am committing to doing is getting through one rate-setting process and seeing what happens. We see those minute decisions and minute factors that ESCOSA had regard to and the absolute weighting they used. It is not simple equation. To give an example, Victoria has

a very simple equation. It is 0.6 CPI, 0.4 wage inflation and 0.05 efficiency dividend. That is how simple their methodology is. We would like ours to provide that level of certainty, if possible, but there are a broader group of factors that we need to have regard to.

In regard to my second commitment, we will see how it goes in the first year. If it needs refinement then we are very much open to doing that. We are not here to bankrupt councils. We are here to get this right. We believe that there is a sweet spot at which we provide the impetus for efficiency and reform but we do not go so far as to curb what councils will do in the future. The way that you know we are serious about that is we could have just done a hard CPI cap increase. We could have just said that it is CPI, it is on rate revenue and there is no allowance for growth. There is no allowance for a variation process as nuanced as this.

However, we have not gone down that path because we are genuinely trying to get to the right answer to get that balance right. That balance is going to be a matter of degrees one way or another—too harsh, too lenient—but that is something we are going to have to develop over time as the collective experience in body of work goes into this goes forward. Again, I think we are setting down the right broad direction, and we are committed to making sure that over the medium term this gets done properly.

**Mr HUGHES:**

Am I wrong in taking it that with improved regulation you might actually set some standards in relation to community engagement? I ask this question because of the variation in the quality of community engagement and that councils, on the take, go from the very poor to the fantastic.

**The Hon. S.K. KNOLL:**

Your question really is: how much guidance is ESCOSA going to provide to councils? You talked about that in relation to community engagement. The answer is that ESCOSA can provide as much guidance as we want them to. They are developing those guidelines at the moment. I think the government is going to

have a look at them and provide some feedback.

The answer is that ESCOSA is here to provide guidelines that provide a very firm direction to councils about what they can and cannot expect.

Think about it from this perspective: ESCOSA is a regulator that does not just want to create work for itself. That is why I think they have a bias towards setting a single cap rather than meddling in the affairs of 68 councils potentially unnecessarily. However, the better their guidelines, the better the vary applications that come to them and the easier it is for

Clause passed.

Clause 6.

**Mr BROWN:**

Minister, the new section 187D talks about the base standard rate and the capped standard rate and the calculations as to the way both of them will be done. My question is: am I correct that if  $R_c$ , which is using the calculations of CSR, is less than  $R_b$ , which is using the calculation of BSR—for example, the total value of the total revenue that is to be received by a council has fallen for some reason, because of some sort of statutory change by the state government or something along those lines—and  $N$  has stayed roughly the same, would that mean that the council rate increases would be more than they would otherwise have to be? What I am asking is, if the revenue has fallen, does that mean that because the new rate is an uplift figure from a calculated last year's base, the new increase would have to be larger than it would otherwise be?

**The Hon. S.K. KNOLL:**

This is where the fun begins. To challenge the first part of your question about whether councils can total rates revenue,  $R$  is what we are talking about. We are not talking about total revenue for councils—only rates. Theoretically, a council's total rate revenue can go backwards in two

them to make their decisions. I think that ESCOSA has a very strong vested interest in making sure that they provide some clear and strong directions to councils so that councils know and expect what ESCOSA is going to ask them to look at.

In relation to that, these guidelines are going to come out and they are going to be available for everybody to view. If members opposite have feedback and they expect or believe that there is something that we need to put in as part of the guidelines, we are here to listen and be open to changes in that regard.

scenarios: one is if they lose the number of rateable properties, and that is very unlikely, or, if it happens, it happens at the absolute margins. The second way is if you have a wholesale devaluation of a significant portion of your council's assets.

I asked the question about whether it has ever happened before, and there is not a specific answer that springs to mind, but let's take an apocalyptic scenario. Let's take a very remote regional council that basically has only primary production property. They have a massive drought and all of those properties get devalued. That could see their rate revenue fall. Your question is: when they apply their capped year increase, will they essentially be increasing it at more than the cap? When they set the base standard year, you are essentially working off a valuation base for the group of assets that are being rated.

Where the capped year sees a significant devaluation of the total asset base, the answer is—and I will explain it this way—that what councils do now is adjust their rate in the dollar to balance off against their market valuation change. They will still be able to do that. If you see a wholesale devaluation, councils have the opportunity, when they set their capped year budget, to increase the rate in the

dollar to make the effective rate revenue per property the same.

**Mr BROWN:**

But the increase will be greater because the base has dropped.

**The Hon. S.K. KNOLL:**

No, because councils do that now. Think about it the other way around. The Adelaide city council, for instance, has seen a massive increase in their market valuation. It is just a market valuation change. What they have done is reduce their rate in the dollar to balance off against that. That up-and-down A times B type of thing happens now. That will continue to happen in exactly the same way in the future.

Councils may decide—and this is where it gets a little bit tricky—where there is a massive decrease in market valuation because their rateable property base is under significant stress, to use that as an opportunity to reduce the rates revenue on that asset base on that group of properties, and that may make their rates revenue in totality fall. In that example, as Alex starts shaking her head, they would essentially apply the cap to that annualised rate revenue base, but there is huge flexibility for councils to make that decision on their side of the aisle to make their revenue consistent.

Again, the get-out clause here is: where they feel like they cannot, they can apply for a valuation process. If we are talking about a distressed council that feels they need for some reason to go back to the ratepayer base for a variation, they can do that, but that is an example that is extremely remote. If we are talking about something that exceptional, I think ESCOSA will take a very sympathetic view of that—if that answers your question.

**Mr BROWN:**

I probably did not explain myself properly. I am sorry, numbers were never really my strong suit. Minister, what I was talking about was is if there is a reduction in the council's rate revenue for whatever reason. The number of properties is staying pretty much the same, but the revenue that they are receiving has

dropped for some reason. Does that mean that they can essentially, on the one hand, increase their rate base to get up to where they should have been if there had not been a fall and then, on top of that, add the cap? So, for example, if their value has fallen by, say, 1 per cent and the cap is at 3 per cent, can they increase by 4 per cent and have no problems?

**The Hon. S.K. KNOLL:**

The answer is no. Councils have the ability, by fluctuating their rate in the dollar, to make consistent what their rates revenue base is going to be. So they will be able to make that fluctuation. They can balance that up to equal last year. They then get the allowance for growth. Let's treat that separately. Where they choose to let their rates revenue fall, the cap does not just happen. I really needed a whiteboard.

The valuation goes down. The council has two choices, in very blunt terms. They either do not adjust the rate in the dollar and let it fall or they increase the rate in the dollar to make it balance up and consistent. Whatever they choose, up to last year's total rate revenue amount, that happens on their side of the aisle. If they choose to balance that up and it is what it was last year, the cap will get applied to that. If they choose to, by their own volition really, reduce their total rates revenue according to their calculation, then the cap will then be applied to that.

They already have the flexibility to kind of do what you are saying anyway by increasing the rate in the dollar, so they can balance out those fluctuations. As they do now, they will be able to do that going forward. One of the questions I asked is: is there a scenario in which a council's rate revenue can go backwards? The answer is theoretically yes, but only if councils let it. They have the complete ability, as they do now and as they will going forward, to adjust their rate in the dollar to balance off against market valuation changes.

**Mr BROWN:**

I hope I explain myself properly. If the result of a state or federal government decision impacts upon the rate revenue of a council—say, for example, there is a

wholesale transfer of properties to community housing providers which impacts on council's ability to raise rates from those properties—does that then automatically cause the council to have the ability to raise rates more than they would otherwise have raised them because of the impact on revenue?

**The Hon. S.K. KNOLL:**

This is where there is a separation. This is quite an interesting journey also that I have come along. Before we go back to your question, think about it like this: when there is a valuation change to a property, that has absolutely no impact on the cost of the services that councils provide for that property.

**Mr BROWN:** This is about the rate revenue.

**The Hon. S.K. KNOLL:**

I understand, but it is why it is not an issue. You get a \$100,000 increase on the valuation on your house, and that is a 20 per cent valuation increase. Council's cost to provide the services did not just get 20 per cent more expensive. They did not get any more expensive. It is why we actually do not include valuation change as part of this, because it does not change the cost base. What councils do on a given year and, again, what Adelaide city council has done, because they have seen large increases, is lower their rate in the dollar to balance it out.

What they do, as I currently understand it, is they work backwards. They pick a rate revenue and then they work backwards to calculate what that means for the individual differential rate setting system. They essentially use the rate in the dollar to balance that out. What they historically do is—again, it is extremely variable and the councils do this and they will continue to do this in the future, but they do have the control—in terms of the calculation of the annualised rate revenue, they have the ability to use that as the balancing item essentially. What I think they will be incentivised to do is to vary the rate in the dollar to make sure that what we charged last year is what we charge this year for the purposes of determining the cap.

Market valuation change will not have an impact outside of the way it already impacts. Rate capping will change nothing in relation to the way that happens. The question I think you are asking is: is there a get-out-of-gaol-free card for councils? In a rate in the dollar sense, yes. In a rates revenue sense, no. As to the total dollars that they collect, they can balance things up to get back to the total dollars that they collected but they cannot do more than that.

**Mr HUGHES:**

This is a far simpler question. As a member who has a number of smaller country councils—The Flinders Ranges Council, Cowell, Kimba, Coober Pedy, and I might ask a question about Coober Pedy later, that might be interesting—I just want the minister to give a guarantee about the country roads under the control of those councils, which are often dirt roads which require a lot of maintenance, and to give a guarantee that under this new regime there will not be a deterioration in those roads that councils already struggle to maintain. The example and the history in New South Wales has been a deterioration in those country roads as a result of the rate capping regime in New South Wales.

**The Hon. S.K. KNOLL:**

I will answer your question in two parts. The second one is something we have come across that is really—

Mr Hughes interjecting:

**The Hon. S.K. KNOLL:**

Well, in life there are no guarantees, Eddie. Sorry, member for Giles. But if councils currently choose to let their roads deteriorate, that is currently a matter for councils. If councils into the future, under a post-utopian rate capping world, choose to let their roads deteriorate, they can do that. Councils will have a decision. They can either choose to make a case to ESCOSA for a variation or not.

I can tell you in relation to New South Wales—and I would like to challenge this because this is a myth that has been purported in a lot of places that there is this massive infrastructure backlog in New

South Wales. IPART, for the last five or seven years or something, has been the regulator that regulates councils, because they were also the group that were looking at amalgamations. Councils changed their asset structure and their asset useful life structure that created this massive on-paper backlog in road maintenance. It is a calculation based on depreciating the useful life of the asset.

IPART turned around and said, 'If you are not sustainable in the long term and do not have a sustainable plan for dealing with your infrastructure backlog, then we will consider you right for amalgamation.' With the stroke of an asset depreciation change, the councils wiped out a lot of the infrastructure backlog overnight. That is not to suggest that country councils do not have issues with roads, but that is to say that there are various ways to look at it. It is also a way to dispel the myth that rate capping is somehow going to have a massive bearing on that.

Councils make the decisions to let their roads deteriorate or not now. They will continue to do that in the future. I can give this guarantee, though, member for Giles, that as a regional MP who has a lot of regional roads, I will be looking very closely at the ESCOSA guidelines to make sure that there is no disadvantage for a council that makes a very strong case that they need to invest more in regional road upgrades as part of a variation process.

For instance, Light Regional Council in my electorate has made a decision now after years of having some pretty average roads—the current member for Light is still the member for Light, but his electorate has moved a little bit, and I have probably driven over a lot—to accelerate their road maintenance. In the future, that is something that they could do within their usual budget or they could come for a variation for, but they are only making those decisions now. The variation process still provides an opportunity for them to do it in the future.

**Mr HUGHES:**

I did promise a rather specific question on Coober Pedy. Taking into account the objects of this part—and I will not repeat them—how do you see that in the context

of the Coober Pedy council? You might dismiss that as a mischievous question.

**The Hon. S.K. KNOLL:**

There are some councils that are stronger financially than other councils. I think that as part of a variation process—and again, I do not want to presuppose the ending of the book—we ask councils to have regard to their long-term financial management plans. If we accept that Coober Pedy council does not have a strong balance sheet and has some financial difficulties, that seems to me to be exactly the kind of council that needs a positive outcome from a variation process in order to deal with those things.

We call it a reserve power, but if we consider that Coober Pedy is a special case, ESCOSA may actually in advance set a specific rate cap for Coober Pedy, or a council that is in financial distress. ESCOSA has the ability to do that. Where there is a specific need or a specific case or, for instance, where I could ask ESCOSA to have a look at something, there is the opportunity to do that. Somebody who has long-term financial problems I think is somebody who is right for a variation process. The way that that variation process is structured, it is those kinds of problems that need to be dealt with.

**Mr MULLIGHAN:**

I am wondering how the regime set out in clause 6 will apply to a council like the City of Port Adelaide Enfield, which has over the years been able to manufacture a way to levy rates, particularly on commercial properties, which are related to the turnover of that commercial business.

**The Hon. S.K. KNOLL:**

Sorry, can you repeat that question?

**Mr MULLIGHAN:**

Yes. I am wondering how this regime would apply to an instance like the City of Port Adelaide Enfield, which has been able to manufacture part of its rating base to apply rates based on the turnover of commercial businesses.

**The Hon. S.K. KNOLL:**

That is bizarre. The broad answer to your question is that the cap is calculated based on the total rate revenue. It does not delve down into individual properties. We are talking about a dollar figure and a percentage increase on a dollar figure, but I think you raised a bit of a broader question. My understanding is that the way that a council rate is set is based on the capital value of the property, and a rate in the dollar times the capital value gets you your rates notice. We are actually just checking whether that is something that can actually be done as part of the act. You are saying that there are properties that are rated on turnover and not capital value?

**Mr MULLIGHAN:**

Indeed.

**The Hon. S.K. KNOLL:**

The answer I have is still the answer that stands: the rate cap applies to the total rate revenue rather than an individual. To the extent that we are talking about the dollars rather than how they calculate how they get to the dollars, it is a percentage cap on the dollars. I think you raise a separate point that we should probably have a discussion about—and I am happy to take that on notice—which is the rate-setting policy by the City of Port Adelaide Enfield. I think we will take that on notice and look at that.

**Mr MULLIGHAN:**

I realise this is a bit of a curly question, but I think it is representative of a concern. It is likely there will be instances where councils have, over time—perhaps going far back in time or more recently—developed ways in which to raise revenue from its rating base, whether they be commercial, residential or industrial properties, which are not readily conceived of by this bill. There are two subsections to this question. According to 187E(4)(a)(iii):

(a) ESCOSA may only make a primary rate cap determination that is to apply to a particular council if ESCOSA considers it appropriate to do so taking into account...

(iii) the level of other fees or charges imposed or proposed to be imposed by the council...

I just flag that as a matter of interest. Adjacent to that, I also flag that section 187E(4)(b) provides:

(b) before making a primary rate cap determination that is to apply to a particular council, ESCOSA must—

(i) consider the following—

amongst others—

(C) any matter that the Minister directs ESCOSA to consider;

(D) any other matter considered relevant by ESCOSA...

Can the minister perhaps advise the house on the sorts of issues which may be captured by that and perhaps may have been informed by discussions that he has had with ESCOSA?

**The Hon. S.K. KNOLL:**

The rates revenue you are talking about is called rates revenue, and how they calculate that rate revenue, councils will continue to do. However, the cap applies to the total bucket. How that bucket is made up—the differential rate setting—is still a matter for councils. The cap applies to the total bucket. So, as long as it sits within that, subject to the cap, if it is a different form of council revenue according to the definition, then it is not part of the cap.

As I understand it, where council separates a rate to provide a specific service, they are only allowed to cost recover in relation to that the way that they set those fees anyway, so it is essentially a cap based on cost recovery. If you are asking whether ESCOSA has the power, where an individual council starts to get funky and tries to find ways to increase revenue outside of their base, then yes. I will give you one example. At the moment, some councils will provide their CWMS service inside of their general rate revenue charge. They may try it on for size that if they excise that and charge a separate line item on the rates notice to provide that service, they can use that as a way to increase their revenue.

The answer is: where they choose to create that separate rate, they have to be

transparent with ESCOSA and say, 'Here are the costs we're going to recover. Here's the revenue we are going to get from it. It is a one-for-one exercising from the general rate revenue base and it is completely transparent.' So they actually have to go to ESCOSA and tell them when they are going to do that—if that is the question you asked.

**Mr MULLIGHAN:**

It was not, but I will move on to another one. New section 187D(2) and (3) state:

(2) The base standard rate, in relation to a council...

and—

(3) The capped standard rate, in relation to a council...

Can I just clarify that for all 68 councils in South Australia, ESCOSA will be making separate determinations on both of those for each council?

**The Hon. S.K. KNOLL:**

A cap is set for all councils—except where it is not—but the calculation is done for both the base standard rate and the capped standard rate. That is done council by council, yes, but one is the calculation of how the cap affects each individual council and one is the setting of the cap itself, and the council will do that calculation.

**Mr MULLIGHAN:**

I refer to (3)(a). Can the minister advise the house what sort of discussions he has had with ESCOSA that might shed some light on how the Essential Services Commission might establish that particular calculation about what the new indexed rate would be?

**The Hon. S.K. KNOLL:**

Your question is: what discussions have I had with ESCOSA? The answer is that we have essentially asked them to go away and develop guidelines and given them sort of a broad remit about what we want that to look like. The firm direction we have given is to minimise red tape and incentivise growth. They are the two

directions we have given to ESCOSA—not formally, but in the discussions we have had.

Essentially, as to how the base standard rate and the capped standard rate are to be calculated, it is actually a discussion that ESCOSA is having with councils at the moment. Councils will be the experts about how they do that but, in the development of the guidelines, ESCOSA has been talking to councils about the different nuances that go into especially what is included as part of the annualised recoverable revenue from general rates and then the total revenue recovered from rateable properties in the capped year. That is a discussion that is actually ongoing between councils and ESCOSA, rather than between me and ESCOSA.

**Mr MULLIGHAN:**

And what are they firming up on?

**The Hon. S.K. KNOLL:**

What are they what, sorry?

**Mr Mullighan:**

What sorts of items are they firming up on that will be included in that calculation?

**The Hon. S.K. KNOLL:**

Obviously, this is quite clear about increasing the number of rateable properties, but there are also discussions around the concern the member for Light raised in relation to improved capital value as distinct from a market valuation change. They are really the major growth factor concerns that are being worked through at the moment. The other thing to say as part of this in relation to understanding in a capped year what the annualised rate revenue is, what we have said—but this is part of the legislation—is that when you are taking into account the increase in the number of rateable properties, the end part is the number of properties, but that is just to calculate the base standard rate, which is an artificial construct for the purposes of this, rather than anything real within a normal budget setting process.

But what they have said is that over the course of a year councils will see an

increase in the number of rateable properties. For the purposes of determining annualised revenue recoverable from general rates, what they do is assume that all the properties that have come online over the course of the year have been rated for the full year. So, if you think you get to the end of the financial year, council starts rating individual new properties over the course of the year. They do not get a full year's worth of revenue in that first year: they get whatever revenue is when that rateable property came online.

For the purposes of calculating the annualised revenue recoverable from general rates on rateable properties, they assume that all those properties that came online over the course of the year have been there for the full year. For instance, what would otherwise happen is that councils would be incentivised to make sure that all the new properties come online at the start of the financial year and not at the end of the financial year. You want to make sure that it looks as if those properties existed for the full financial year so that, when you are applying the cap to that total revenue base, you are doing it on the total sum as opposed to the part-year sum for those rateable properties that have come online over the course of the year, if that makes sense.

**The Hon. A. PICCOLO:**

Tonight, the minister has pointed out two things; one is that the bill is about dealing with the revenue side of council, rather than with the expenditure side. By controlling the revenue side, he believes, and I say he believes because I cannot see the connection, that there will be new conversation, as he puts it, about the whole council budgeting process, although he has not clarified or indicated what that mechanism is. Conversations come from culture, and I am not sure how this is going to instantaneously change the culture of councils, given the whole range of things that impact on council culture and whether they are country, metro, etc.

Putting that side, given that he is dealing with the revenue side, can the minister please explain to me what mechanism ensures that councils maintain their infrastructure or deal with the loss of revenue—by 'loss of revenue', I mean less

revenue than anticipated, through the cap, which he has indicated is a fact—rather than just not maintaining their infrastructure. What is the mechanism from your rate cap to conversation, to changing culture, to doing things differently? I cannot see it. Please do not say that this is the start of a conversation that will happen because that is not an answer.

**The Hon. S.K. KNOLL:**

here is an old saying that necessity is the mother of all invention. This bill creates the necessity. But, having said that, what essentially the member for Light is trying to suggest is that if councils choose to make really bad decisions because of rate capping, how are you going to stop them from making really bad decisions? I think it belittles councils, member for Light, to somehow suggest that maybe councils would deliberately make bad decisions.

The variation process asks that when the councils seek a variation one of the factors that needs to be taken into account is how the proposal is consistent with the council's long-term financial plan and infrastructure and asset management plan. That is the point at which ESCOSA can make comment about the long-term financial management plan of a council. How a council deals with not getting a variation application is a matter for council. But if councils use that as an excuse to then go and make poor decisions, I think that is not the fault of the legislation; that is incumbent upon the council.

What I would say is that the local government sector has already come to me in relation to wanting help from the state government to provide information to councils about the benchmarking of the cost of council services. That benchmarking piece of work, and I understand there is a lot that has already happened before now, is a—

**The Hon. A. PICCOLO:**

Mr Chairman, can we get back to this bill, not a future bill which he may or may not introduce.

**The Hon. S.K. KNOLL:**

You asked me about culture going forward. You did not ask me about this bill.

**The CHAIR:**

Order! Member for Light, is that a point of order?

**The Hon. A. Piccolo:**

I did say this bill, what provision in this bill.

**The Hon. S.K. KNOLL:**

You ask a question, I answer it. Your question is off in never-never land. I am trying to give you a genuine answer, and now you have a go at me about it.

**The Hon. A. Piccolo:**

No, I am not at all. You are not answering the question.

**The CHAIR:**

Member for Light, you have already asked your question. Minister, please return to your answer.

**The Hon. S.K. KNOLL:**

You said not to give a—

**The CHAIR:**

To your answer, minister.

**The Hon. S.K. KNOLL:**

Sure.

**The CHAIR:**

Return to your answer.

**The Hon. S.K. KNOLL:**

I was asked not to give an answer—

**The CHAIR:**

Return to your answer, please.

**The Hon. S.K. KNOLL:**

—that talked about conversations. You are talking about something specific and

concrete about how we are going to change culture.

**The Hon. S.K. KNOLL:**

As I have said repeatedly, this bill provides the impetus for change, but this bill is not an amendment bill seeking to institute anything other than this. But, as the member would appreciate—and maybe if he had more regard to taking a step-by-step approach in relation to changes within the emergency services sector, he would have still been in the ministry—we have said repeatedly, and we continue to say, that we want to have a vote on this piece of legislation up and down as a stand-alone reform. It is the first reform of what is going to be a series of reforms in this sector.

Benchmarking is an idea that local government sectors talk to me about, which I am really keen to look at. I think competitive federalism is a fantastic thing. I think that reports on government services is the way that states keep each other honest, by benchmarking services against each other. I think that is going to work brilliantly in the local government sector. They want it and we want to do it. It is not part of this bill, but it is not rate capping. But this is the start.

To say that we expect this bill to completely change everything and fix every problem that exists within the local government sector, and that it needs to be in this bill, is completely disingenuous. This bill is a rate capping system. It is the start of a reform agenda, but the reason we do it bit by bit is that you need to take the sector on a journey. You need to consult, you need to discuss, you need to help everybody understand what it means, and then you need to implement it and then you move on to the next thing. That is self-evidently what we are going to do.

But, when I get asked a question about why this piece of legislation will not fix every problem that has ever existed within local government, and say that I can't give a wishy-washy answer, then I think that we all need to have a good hard look at ourselves.

**The Hon. A. PICCOLO:**

That can't go without a response. First, I will repeat the question, because I made it very clear. My question was: what is the mechanism in this bill? I was not talking about anything else in the future—I was talking about this bill, and I made it very clear.

Secondly, the suggestion that councils make a poor decision was not the suggestion at all. They might have a choice between cutting a service or downgrading a service somewhere else. It does not mean it is a poor decision; it just means that it is a decision they don't want to make. So, I totally refute the suggestion that I was actually implying that they make a poor decision. They made a decision because of less revenue, one that is less palatable.

To get to the next question, at the risk of asking you to actually address the question itself, how does this bill seek to incentivise, as you indicated, growth, etc? I know how the bill, in your words, takes account of growth. Certainly it does in terms of the creation of allotments. I do not agree that it takes account of capital growth itself, and there is nothing in this bill that I have read that actually says it shall do that. What is the mechanism for this incentivisation, as distinct from having regard for, taking account for or making allowance for?

**The Hon. S.K. KNOLL:**

The answer is that it is explicit about increasing the number of rateable properties and the growth that exists as part of that, but it is silent with regard to other things. The answer is that it is not in this bill, but it is also not excluded as part of this bill. It is something that ESCOSA, through the formulation of its guidelines, can have regard to.

Having said that, if the member wants to propose an amendment, we are all more than happy to look at it. The answer is that, when we enact legislation, we want it broad, we want it to be enabling and we want it to set some strong, broad guidelines. But, I think there is a degree of flexibility that we need to give the independent regulator, and I think this bill sits where it needs to.

Having said that, we have been very clear. I agree, member for Light, that we have said repeatedly that we want this to incentivise growth, and we believe it does. There is nothing in this bill that does not incentivise growth. There are some things on which it is silent, but if the member believes that there is an amendment that needs to be put, then put the amendment.

**The Hon. A. PICCOLO:**

Based on what the minister has said tonight, and he has quite rightly pointed out that there is a whole range of permutations of councils, and classes of council, whether they are metro, city, small, large, etc. The minister also said tonight that it is his view, and he has indicated to the commission, ESCOSA, that there is a preference or bias, I think the word was, for a single rate cap rather than multiple rate caps, subject to one or two exceptions perhaps. Given that this is one of the biggest factors about which this bill is silent, how do you intend to achieve one rate cap to cater for low growth and very high growth councils?

**The Hon. S.K. KNOLL:**

There are a number of parts to that question. The first one is that high growth councils will see their revenue increase at a greater rate than the cap than low growth councils will. However, if the argument follows that high growth councils incur upfront costs in relation to that growth and low growth councils do not, then quite logically high growth councils will see their revenue increase at greater rates than low growth councils will. But—

**The Hon. A. Piccolo:**

You haven't answered the question.

**The Hon. S.K. KNOLL:**

Yes I have.

**The Hon. A. Piccolo:**

No, you have one cap.

**The Hon. S.K. KNOLL:**

Yes, there is one cap.

**The Hon. A. Piccolo:**

How do you actually—

**The Hon. S.K. KNOLL:**

There is a separate calculation that is made for each of the 68 councils. High growth councils which see a large increase in the number of rateable properties will see their revenue increase at greater rates than lower growth councils, notwithstanding the fact that it is a single cap. When you determine what that means for each individual council, you are going to see 68 different decisions, 68 different calculations made, but there is always a variation process. So where a low growth council has some higher infrastructure needs or where a low growth council wants to turn into a high growth council and needs to do some things upfront for that to occur, that is an appropriate use of the variation process.

**The CHAIR:**

Member for Light, this will be your last question.

**The Hon. A. PICCOLO:**

You are being tough now.

**The CHAIR:**

Not really. This is number four.

**The Hon. A. PICCOLO:**

Like I said, you are being tough. So, effectively you are saying that most councils, particularly high growth councils, will more than likely have to apply for variation. So the variation will not be the exception; it will almost be the rule.

**The Hon. S.K. KNOLL:**

No. That's an individual decision for councils. To give you an example, the highest growth councils are Playford and Gawler. They have, over the last 10 years—and do not quote me on the exact figures—

**The Hon. A. Piccolo:**

How about five years and not 10?

**The Hon. S.K. KNOLL:**

I have the figures over 10 years.

**The Hon. A. Piccolo:**

Why didn't you get them over five? Is it to suit your argument?

**The Hon. S.K. KNOLL:** Because a piece of string is as long as we choose to make it.

**The Hon. A. Piccolo:**

No, you picked a date that suited your argument.

**The Hon. S.K. KNOLL:**

How dare we look at averages over a longer period of time.

**The Hon. A. Piccolo:**

No, I use averages—

**The CHAIR:**

Member for Light, you have asked your question.

**The Hon. S.K. KNOLL:**

How dare we.

The Hon. A. Piccolo interjecting:

**The CHAIR:**

Member for Light, you have asked your question. Order!

**The Hon. A. Piccolo:**

You have used a starting point that suits your argument rather than give a fair case.

**The CHAIR:**

Member for Light, you have asked your question. Minister.

**The Hon. A. Piccolo:**

I am just clarifying.

**The Hon. S.K. KNOLL:**

The highest growth councils in South Australia have an increase in the number

of rateable properties year on year. It is somewhere between 1½ per cent—I do not think anybody gets to 2 per cent, but it is certainly over 1 per cent. There are low growth councils that will see a 0.1 per cent or 0.2 per cent increase, or something very small. If we take a high growth council, let's say for the sake of the argument, the cap increase is set at 3 per cent. You will see a low growth council like an outback regional council have an increase that is then at about 3.1 per cent or 3.2 per cent, and you will have a high growth council have an increase of 4.5 per cent or 4.7 per cent. That is the level of difference in fluctuation we are talking about.

Allowing for an increase in the number of rateable properties will create quite a divergence in the calculation council by council, but the fact that we are talking about orders of magnitude of that size says that the way that we have set this up is quite generous and we will see councils like Playford, Gawler and a lot of the ones in your area have a much more generous cap than low-growth councils.

**Mr KOUTSANTONIS:**

Has the minister received any legal advice that ESCOSA could be subject to legal challenge for their determinations on the size or the value of the rate cap?

**The Hon. S.K. KNOLL:**

Part 1: have we received legal advice? No. Part 2: what are the review mechanisms? We expect there to be the normal judicial review mechanisms that would exist for a statutory authority such as this. Part 3: is there a specific concern? There is nothing that has been raised before. We have—

The Hon. A. Piccolo interjecting:

**The Hon. S.K. KNOLL:**

We made a conscious decision that the minister would not have an intervening power to override the decision. It was a very conscious decision that we took to take the politics out of this because I think that there could be pressure put upon a minister to make a more harsh cap determination than what ESCOSA would otherwise make. I think that a minister who sets a more generous cap is a very brave

minister, but we took that power away because we wanted to have an independent decision made by a body that has integrity and independence.

There are normal judicial mechanisms. There is a series of reviews as part of the legislation. There is a two-year outcomes report. There is a longer-term five-year review of the act. We have also committed to, after the first round of rate setting and cap setting processes, looking at this and tweaking the model to make it work where that suits. I think what you are talking about is separate from the policy process. If there is an insinuation that ESCOSA has somehow acted in a way that is either corrupt misconduct or maladministration, there are already existing processes to do that.

**Mr KOUTSANTONIS:**

Can we have some clarity from the minister on what I am looking at? Whenever you regulate monopolies, a lot like the process ESCOSA will be conducting for local councils, previously things like limited merit reviews were available to electricity utilities, gas utilities and pipeline operators, such as SA Water, who have their regulated costs allocated by ESCOSA. The question I am asking is: has the government received any advice that a citizen of a council—a ratepayer of a council—has any legal rights to appeal a determination by ESCOSA, and does a council have the ability to take legal action on the basis of the work ESCOSA does?

When the minister says 'judicial review', I am assuming he means if ESCOSA conducted some error in law while they were determining the rate increase. I am talking about the merits of the cap that ESCOSA have placed, not if there has been an error of law. Does the government have any advice, or has received any advice, from its own lawyers or externally, saying that councils may have a legal avenue to overturn an ESCOSA rate capping decision?

**The Hon. S.K. KNOLL:**

The short answer is no. When you are talking about legal advice, there is no legal advice that exists. The way that ESCOSA sets water prices is setting a price. That is

very different from setting a cap. They are similar but they are different.

Mr Koutsantonis interjecting:

**The Hon. S.K. KNOLL:**

They are very, very different. Essentially, the variation process is a form of appeal. Beyond that, the variation process is the council saying, 'I think I need something different from the cap.' We are all saying that it would probably be more, because if it were less, then they could do whatever they want. Beyond that, we are talking about the policy decision of a government of the day or a parliament of the day.

If you talk about the fact that a council or councils believe that the cap-setting and the variation process are too harsh, then that is a matter for the bill and it is a matter for the guidelines as to how to deal with that. Again, there is then a separate judicial process about a fault at law, but there is a cap and there is a variation process. The variation process is the appeal.

The other thing that we are talking about here is that there is enough time in this, but there is a set of deadlines, too. When ESCOSA make a water pricing determination, they are doing it for years in advance, so you have time to put this thing through the courts and go through a whole series of appeal mechanisms. This is going to be done on a yearly basis. You might lose the fight this year, but you might then win it next year. There is an opportunity every single year for an appeal mechanism.

Variation has to be put in by 31 March and it then needs to be determined. The year starts on 1 July. We have made sure that this process mirrors the budget-setting process of a council, but we also realise that there is a deadline. There is a situation—and it is something that the member for Light raised when I briefed him—regarding the question of where ESCOSA has the ability to enforce the decisions that it makes. The answer is that new section 187J(3) states that a failure to comply with the primary rate cap determination, whatever it is, does not affect the validity of any rate.

What that means is that a council will breach the cap or make its determination differently from what ESCOSA says it should, but that does not invalidate the decision that the council makes. What we have done, if you look at clause 7, is made an amendment to section 273, which is the power that the local government minister has to take some action against a council. Currently, it is a report from the Ombudsman, ICAC or the Auditor-General. We have essentially included a report of ESCOSA under that section 273.

The experience interstate is that councils comply with the cap and the cap-setting process. We do not feel that we need to have a series of penalties or a stick that ESCOSA can wave at a council if they do not do exactly what they say, but if ESCOSA writes to me and says, 'This council has made a mistake and it hasn't fixed it up,' or 'It has egregiously broken the law and we think you should have regard to doing something about it,' then that is the mechanism by which we can use enforcement.

I think we have to make a distinction here between what a policy decision of the state government is and how that relates to and impacts upon local government, and a level of misconduct, or whatever you want to call it, regarding ESCOSA. I think they are two separate things.

**Mr KOUTSANTONIS:**

I have one last question in four parts.

**The CHAIR:**

Right. Well, let's see how we go, shall we?

**Mr KOUTSANTONIS:**

ESCOSA generally charge for regulating industry, and I see the minister putting two big thumbs up, excellent. ESCOSA also have powers to compel bodies that they regulate to provide information: the weighted average cost of capital, the regulated rates of return, what they have made in the past, what their expenditure costs have been, what they have paid contractors, what their EBA negotiations might be. Regulators have very broad powers to look inside organisations that they regulate. So my question in four parts is:

1. Will ESCOSA be able to charge councils for the cost of their regulation?

2. Will councils then be able to pass on that cost as part of their rates base to their ratepayers?

3. Will ESCOSA have power to compel councils to give them information that is commercially confidential for councils in terms of their tenders and the operating of their business?

4. Will that be made publicly available on all determinations, as it is for regulated monopolies? When a regulated monopoly has a determination generally the regulator publishes all information that the monopoly has passed on to the regulator for the purposes of that determination. Will sensitive commercial information held by councils in terms of their procurement and their contracting be published by ESCOSA once they have used this to calculate the rate cap?

5. The final question is: what is the penalty—

**The Hon. J.A.W. Gardner:**

That'll be five.

**Mr KOUTSANTONIS:**

Sorry?

**The Hon. J.A.W. Gardner:**

That's five.

**Mr KOUTSANTONIS:**

Is it five? Well, this is subsection (b) of question 4. Subsection (b) of question 4, sir, is—

**The CHAIR:** It is a big clause.

**Mr KOUTSANTONIS:**

—what is the penalty for a council not complying with an ESCOSA direction to give information to it?

**The CHAIR:**

Did you get all those parts, minister?

**The Hon. S.K. KNOLL:**

I have got the answers, but I am trying to remember the questions. Can ESCOSA charge councils for their work? No. I think it would be particularly cheeky of the state government to say to councils, 'You've got to pay for the cost of regulating rate capping.' Councils are going to have to deal with things on their side of the aisle, but—

**The Hon. A. Piccolo:**

They pay for the variation. The bill says you pay for the variation; councils pay for the variation.

**The CHAIR:**

Member for Light, you are not even in your place, so please desist.

**The Hon. S.K. KNOLL:**

We have taken a decision that the state government will bear the costs of ESCOSA's work on setting the cap. Yes, there is a provision in there for ESCOSA to be able to charge a fee for assessing a variation application, but that must not exceed the reasonable cost of determining the application.

**Mr Koutsantonis:**

Can it be passed on to ratepayers?

**The Hon. S.K. KNOLL:**

Everything the council does can be passed on to ratepayers. The answer is that is the only part at which ESCOSA can charge any fee, and the state government is picking up the tab for the rest of it.

The next part of your question was in relation to the provision of confidential information, and the only point at which ESCOSA can use those powers is when a council asks for a variation. As you would expect, the council will put its variation application to ESCOSA; ESCOSA will look at it and say, 'Well, I probably need some more information here, here and here', and they have the power to compel that. In relation to the publishing of that information there would be, as part of ESCOSA's act, legislative guidelines about how they can and cannot do that.

Having said that, is there a risk that ESCOSA is going to publish commercial-in-confidence information from councils? I do not see that as a real risk. If the member for West Torrens can identify where that is a real risk, we are happy to deal with it. But having said that, if a council hands over commercial-in-confidence information, in terms of what ESCOSA would have to have regard to, like any of the other integrity bodies for instance, as you mentioned, that would happen in the normal and usual way.

**Mr KOUTSANTONIS:**

A point of clarification for the minister—

**Mr Pederick:**

Six.

**Mr KOUTSANTONIS:**

Hardly. The cost of capital would be consistent across councils, given the nature of the way councils borrow, but their operating costs would be bespoke across different councils because—

**The Hon. S.K. KNOLL:**

They would have a bespoke approach.

**Mr KOUTSANTONIS:**

Yes. So some councils consolidate their costs, other councils do not. Smaller councils have higher costs, larger councils should have lower costs. If ESCOSA cannot compel and does not have the power to seek that information, how can they adequately regulate a cap?

**The Hon. S.K. KNOLL:**

When ESCOSA looks at setting its cap for the year for the state, I really do not think it is going to be trawling through the books of all 68 councils in determining how to do that. I am not going to reflect on a member's presence or otherwise in the house, but earlier on in this committee debate we discussed the fact that there is a bias towards setting a single cap, and when we set that cap it is going to be set on a set of macrofactors that exist. It will then be up to councils to identify how those cost pressures hit that council and whether or not they need a variation

because of the way that cost pressure hits that individual council. The variation process is the right point at which ESCOSA will have regard to that.

In regard to compelling information, it is through the variation process that that is going to happen because ESCOSA sets a cap and all the councils that work underneath the cap just go about their normal business, and ESCOSA does not care. When they come in for a variation, that is the point at which ESCOSA says, 'Well, if you want more money than what we think the macrofactors are impacting upon the cost structure of local government, that is the point at which we want to get down into the weeds and we are going to need some more information.'

**Ms WORTLEY:**

My question, minister, is: what will be the cost to taxpayers for the role that ESCOSA will be playing and also the cost, individually, to councils? We have 68 councils that are going to be involved in this. We have ESCOSA out there doing the work. With 68 councils, it is going to be a full-time job; it is not something that is going to be run over a short period of time.

**The Hon. S.K. KNOLL:**

I think this is a question that we have answered earlier on in the evening. The variation process and the way that the cap time line works is to mirror and fit in neatly with the existing budget setting process. If you read through clause 187G, it talks about things that the application must specify. Apart from things like saying you have to tell us what it is that you want and why you want it, it states that the likely impact of the proposed varied rate cap on ratepayers, including their capacity and willingness to pay, is something that councils would normally have to deal with as part of their budget setting process.

Paragraph (f) states that 'consideration has been given to reprioritising proposed spending measures' Again, that is a normal function that a council would undertake: 'Look, we've got this bucket of money, what do we think is the highest priority to spend it on? Is there something that we can probably let fall off the back end?'

Paragraph (g), 'how the varied rate cap represents value for money for the council and its ratepayers' I think is a fairly structured straightforward question that would be answered through a normal budget setting process. In relation to paragraph (h), 'how the proposal is consistent with the council's long term financial plan and infrastructure and asset management plan', those plans already exist, they are not new. This proposal is consistent with that because it is essentially saying, 'You've got to have one and this has to be in it, and if you are asking for variation it's obvious that that's going to be in it.'

From a council's point of view, there will be some work filling out a form and putting together the information. But to the largest extent possible, the information is going to already be there. I come back to the Barossa Council and their big project. They have been working on this for 12 to 18 months. They have consulted with every part of the community. They have weighed and assessed options and had discussions over a long period of time amongst their elected member base and they have formed this project.

If I look at that—and that is something they have done on their own as part of their normal budget setting process and the normal way they work out proposals—they have done what they need to do to comply with the variation. All they have to do is put a pretty ribbon on top and chuck it in. We expect that this will not necessitate councils needing to have a specialist resource. They just need to take the information that they should currently have, package it together and give it to ESCOSA. Now, if you talk about the full-time resource for ESCOSA, that is something the state government is taking care of.

**Ms WORTLEY:**

Just carrying on from that, it is actually the taxpayer who will be taking care of it, as opposed to the government taking care of it. In the question I also asked for a figure, an estimated cost, but there did not appear to be anything coming through with that—that was in relation to ESCOSA. Also, a concern raised through councils, residents and councillors is what will be the cost to the councils for the

implementation of the rate capping throughout the year and also the training, consultation, correspondence and lodgement of variations.

**The Hon. S.K. KNOLL:**

Councils already have to undertake consultation and councils already need to go through a budget-setting process. Everything that we are asking councils to do as part of this rate capping variation determination process is something that they have to do already. There are some small things: when they apply for a cap they have to tell us how much they want. That is something that they are going to determine as part of their budget-setting process anyway.

Yes, there will be a few letters, there will be a few stamps and there will be some time but we do not believe that this is going to be outside of what they would normally do anyway. Yes, there is an application fee but that has not been determined at this point and that is something that I am happy to get some guidance on when this is debated in the upper house. However, the answer is that there is not going to be much impost on councils. We do not want this to have much impost on councils. I know that in New South Wales they have a much more burdensome model but that is not what we are seeking to achieve here.

Earlier on in the evening we were talking about the guidelines that ESCOSA is going to put out. When they do that it will provide some guidance and the clearer that guidance is the easier it will be for councils to put in a variation application. We do not expect it to need a huge specialist resource within councils; it will be something that their financial controllers will be able to put together as part of their normal process.

**Mr HUGHES:**

You indicated earlier that this particular amendment bill was the start of the reform agenda, which has piqued my curiosity. You also mentioned New South Wales, in response I think to a question that I asked, and how the councils in New South Wales adjusted their depreciation formula when threatened with amalgamation. What that meant to the actual physical state of

infrastructure, who knows? Can you rule out that, as part of your reform agenda, there will be no forced amalgamations of the 68 councils in South Australia?

**The Hon. S.K. KNOLL:**

Yes.

**Mr HUGHES:**

Okay; that's straightforward.

**Ms COOK:**

Minister, earlier I think you said that there would not be a rate decrease anticipated moving forward under this regime but in 187F it talks about a varied rate cap determination that may be a positive or negative amount. Can you explain that?

**The Hon. S.K. KNOLL:**

Essentially, as I read that and as I understand it, this is a clause that exists interstate and has not ever seen a negative amount. What could happen, say, is that the cap is 3 per cent, and the council comes in for an extra 2 per cent. ESCOSA may turn it around and say, 'I am not going to give you two, I'm only going to give you one.' This essentially gives ESCOSA the ability to vary what a council has asked for in line with what it thinks is appropriate and what it needs.

**Ms COOK:**

If a rate cap is determined for a given year and a particular council opts to not use that full rate cap for that year, can they roll that over and have a bigger rate cap the year after?

**The Hon. S.K. KNOLL:**

No.

**Ms COOK:**

This just wraps up some of the discussions that I have had with people. In New South Wales and Victorian situations, where rate capping has been applied, there has been a reduction in infrastructure and council services within a number of councils. In regards to this particular regime, then, how will it be any different to that experience interstate? I

understand that when we had a bipartisan parliamentary committee regarding this, that committee found overwhelmingly for it to be a negative experience.

**The Hon. S.K. KNOLL:**

There are a few things to say. The characterisation of that committee as bipartisan I think is a little bit rich considering that I understand we put in a minority report to the committee. Secondly, can I say that our model is not the New South Wales model—it is not the New South Wales model. The other side of the equation is that we are here to protect ratepayers. They are the voice that is so often lost in this debate. They are the ones that we are here to protect. More than that, I have had an amount of correspondence from individual ratepayers who have said to me, 'There is no point in engaging with the budget setting process because I have tried to engage with it before and nothing has ever changed as a result of it.'

**The Hon. A. Piccolo:**

Then how are you improving it? It's just a bit more of the same. That is what people said. The bill says you do more of the same.

**The Hon. S.K. KNOLL:**

We are essentially putting an independent umpire—

**The Hon. A. Piccolo:**

You said the processes are all the same.

**The Hon. S.K. KNOLL:**

That's right, but you are essentially giving another voice or another process to have a look at this. We are essentially giving ESCOSA the power to look at this and for them to be able to make some decisions about what is appropriate and what is not appropriate. But I would hazard to say that the ratepayer voice is the one that has been ignored, and that is the one that we are seeking to stick up for.

This is the question: is it okay for councils to increase their revenue on an average annual basis at 6 per cent when at the same time state government's revenue

has increased by something around 26 to 27 per cent? Is that okay? Do we think that 6 per cent is sustainable? I remember the former minister for health, the member for Playford, as he then was, saying that the rate of increase in health spending was unsustainable when it was about 5 or 6 per cent per annum. There have been figures that say that at some point the increase in the health budget is going to swallow the entire state government's budget.

The same thing is happening, but substitute 6 per cent rate increases on average and household budgets. Somebody needs to stick up for these people, and that is us. They are the voice that is lost in this debate. At some point we need to change the conversation from how much extra we should take to what we can do with what we have got. As anybody involved in a budget setting process would know—and the member for West Torrens and any former ministers would know this—you have to take hard decisions. We have to take hard decisions because our revenue base fluctuates and forces us to. Councils do not have that in their system.

You talk about cultural change. Our culture has developed because of the financial pressures that are placed upon us as a government and as a parliament—

**The Hon. J.A.W. Gardner:**

Or as a household.

**The Hon. S.K. KNOLL:**

Or as a household, as a business. This is the way that we achieve the culture change. By voting this down, what those members who choose to vote this bill down are saying is that 6 per cent increases, three times the rate of inflation, is okay. Nobody has been able to put any argument to me or anybody on this side of the house that the cost increases to councils have been greater than inflation. In fact, if you go and look at the local government index, it works at roughly inflation—their own index. So if there was some sort of hidden cost burden that we do not know about, then somebody needs to come forward and talk about that.

Clause passed.

But in the absence of that, we are going to stick up for the people who have to foot the bill. We make no apology for that. But we are not here to institute a harsh New South Wales cap. We are finding a middle ground, and we are working with anybody who will talk to us in a constructive fashion to do that. Through the conversations we have had back and forth about making sure that growth is incentivised, we are seeking to get that right. But somebody needs to stick up for ratepayers, and that is what this bill does.

Yes, it means that rates revenue will increase at a slower rate going forward. Nobody is hiding away from that fact—more money in the pockets of households; less money going into councils. It is self-evident. But if we cannot save something in the \$2.2 billion-a-year bucket, then we are not doing our job. That is our challenge, and that is what we are looking to do. That is why the South Australian people elected a Liberal government on a platform—because they are sick and tired of footing the bill for inefficient spending and massive increases. It is why we are here in the first place. If somebody wants to put an argument that is different from that, then the second reading speech may have been the most appropriate place to do so.

**Ms HILDYARD:**

Minister, what has the additional bureaucratic function cost been in other jurisdictions that have introduced rate capping, both to taxpayers or ratepayers and to councils?

**The Hon. S.K. KNOLL:**

The cost of our bureaucracy and regulation is going to be a mere fraction of what it is in Victoria. In Victoria, it is a couple of million bucks a year that their regulator got. Ours will be a fraction of that. The only reason that I cannot give a firm figure at this point is that this is part of a negotiation through the normal budget setting process.

Clause 7.

**The CHAIR:**

Just before we go on to clause 7, I remind members that the opposition had a good opportunity to ask questions in clause 6 because of the size of the clause. For the remaining three clauses, we will be going back to the usual practice of three questions per member.

**The Hon. A. PICCOLO:**

What type of regulations does the minister anticipate under this clause?

**The Hon. S.K. KNOLL:**

Clause passed.

Clause 8.

**The Hon. A. PICCOLO:**

What regulations does the minister anticipate under this clause? I will just stay at that point, unless you want (a), (b) and (c) at the same time.

**The CHAIR:**

You will not need it this time.

**The Hon. S.K. KNOLL:**

This clause enables regulations to be made that address transitional issues that may result from the introduction of the rate oversight system. It is expected that any transitional issues will become apparent as ESCOSA develops its guidance on the rate oversight system and as councils finalise their annual business plans for 2018-19.

**The Hon. A. PICCOLO:**

Would the minister foresee that a regulation to this could deal with clauses 5 and 6, where the sections are 187E(6) and 187F(4), and to reassure that the commission cannot reduce rate revenue?

Is this clause 7?

**The Hon. A. PICCOLO:**

Sorry, wrong one. My apologies; I was up to clause 8 already. I was ahead of time.

**The CHAIR:**

Do you have a question on clause 7, member for Light?

**The Hon. A. PICCOLO:**

Actually, no, I do not.

**The Hon. S.K. KNOLL:**

The regulation-making power under this is only in relation to savings or transitional provisions, so that is what it is limited to in the scope. I think the answer to your question is no. Having said that, ESCOSA is developing guidelines and regulations separate from guidelines. They may be able to do something as part of the guidelines.

**The Hon. A. PICCOLO:**

But not legally enforceable.

**The Hon. S.K. KNOLL:**

Guidelines?

**The Hon. A. PICCOLO:**

Not on ESCOSA itself.

**The Hon. S.K. KNOLL:**

If ESCOSA are going to set the guidelines, I think axiomatically they are going to follow them. I do not know why they would want to break the rules that they

themselves set. If they want to change guidelines, they are able to do so. Again, ESCOSA has independence. Through amendment to section 273, we carry this sort of stick that we will hopefully never use, but if we feel that ESCOSA does something wrong, as we would feel that any government agency or department or statutory body does something wrong, to remedy that we need to change legislation, change regulation or a minister. In this case, ESCOSA reports to the Treasurer. There is still a chain of command where the normal decision-making processes still apply.  
Clause passed.

Clause 9.

**The Hon. A. PICCOLO:**

The minister has indicated that under this bill there will be a review of the scheme after five years of operation. A little earlier, in answer to other questions, he referred to the tweaking of the system. Can he perhaps reconcile those two different views?

**The Hon. S.K. KNOLL:**

Yes. We passed this clause. Under 187K, ESCOSA must, in relation to each financial year, give an annual report to the minister on the compliance of councils. ESCOSA must prepare a biennial report on matters referred to in subsection (1)(b) and (c). Again, that is about rate capping determination. A report under subsection (3) must be given to the minister within three months after the end of the second financial year to which the report relates.

There is an annual report on compliance of councils, there is a biennial report on outcomes, there is a five-year review of the act, but there is also a commitment from me that if something needs to change—

**The Hon. A. PICCOLO:**

That is in the bill, your commitment?

**The Hon. S.K. KNOLL:**

No. Having said that, if somebody believes that there needs to be a review of some of

**The Hon. A. PICCOLO:** Chain of command? I thought ESCOSA was independent.

**The Hon. S.K. KNOLL:** Sure. They are an independent statutory body.

*The Hon. A. Piccolo interjecting:*

**The CHAIR:** Any further questions on clause 8?

these levels—and I note that there are three reviews over here already—if somebody believes we need to do something in a formal and statutory way within 12 months, then I am happy to have that discussion. This bill is broad, enabling legislation. I think that what we are going to be talking about here is changes to the way this operates at the margins. I do not know that that is going to necessitate an amendment to the act. It may take the form of a different form of direction but, having said that, we are open to having a discussion about any sort of review mechanism that anybody would like to suggest.

**Ms COOK:**

Can I confirm who this review will be done by, the one that is due in 2023? Who will be undertaking it?

**The Hon. S.K. KNOLL:**

Can you say that again?

**Ms COOK:**

Who will be undertaking the review in 2023? Who is going to do the review and report that must be completed by 31 December? Is ESCOSA going to review itself?

**The Hon. S.K. KNOLL:**

The bill is silent on the matter. By that time, maybe the member for Light will be

the minister and he can pick who does it. I know this is slightly unusual, but in relation to the question, member for Light, that you asked about regulation-making powers for those two clauses that you talked about, the reason that we need those powers there is that—and we had this discussion about the fact that councils doing what they do that rate cannot be invalidated—what these two sections do is give ESCOSA, if there is a council that either makes a mistake or cheekily tries to get some extra revenue, the power to say, 'Well, you didn't comply. You went for a 10 per cent increase. We're going to peg you back.' Those are the two sections that give them the power to do that.

**The Hon. A. Piccolo:**

Of great concern to me is the fact that there are two provisions in that act that enable revenue to be actually reduced in a negative sense and—

**The CHAIR:**

Member for Light, do you want the call for a question?

**The Hon. A. PICCOLO:**

Yes, thank you. In response to the minister's comment a little earlier, when he said that this has actually never happened in New South Wales, if it has never happened, it is not required, why is the provision there in the act?

**The Hon. S.K. KNOLL:**

It is there as a reserve power. There are many laws that we enact that we hope we never have to use. I suppose what we are seeking to do again is give flexibility to ESCOSA to deal with the situations that exist in front of them.

**Ms COOK:**

Can I go back to my first question, please. You did not give an actual commitment on who. Well, can I put it another way. Is it anticipated that this review and report will be undertaken by an internal or an external agency?

Clause passed.

**The Hon. S.K. KNOLL:**

By way of an example, when we made the changes to the Return to Work Act 2014, as part of that a review needed to be conducted, I think three years after the application of that act. The Attorney-General at that time got John Mansfield to do that review. He had a clause like this. In relation to the security payments, there was a five-year statutory review clause. The Attorney-General, as he was then, got a retired judge to do that review.

The Hon. A. Piccolo interjecting:

**The Hon. S.K. KNOLL:**

This is the same thing. This is the clause that we would expect to be used in the same way.

**Ms COOK:**

Given that this review is set for a year after the next state election, it then removes from electors the ability to judge the process that has been put in place, which was a pretty big part of the election platform of the Liberal Party.

**Mr Pederick:**

And we won. That's why we're here.

**Ms COOK:**

It was pretty big. It did not work in our area, but it was pretty big. What consultation with the community regarding the operations of this do you anticipate happening over the next few years?

**The Hon. S.K. KNOLL:**

An annual review into compliance; a biennial review into outcomes, whereby that outcomes review will look at how rate capping affected the way councils do what they do; and a five-year statutory review. Three different mechanisms.

Title passed.

Bill reported without amendment.

*Third Reading*

**The Hon. S.K. KNOLL (Schubert—  
Minister for Transport, Infrastructure  
and Local Government, Minister for  
Planning) (22:16):**

I move:

That this bill be now read a third time.

Bill read a third time and passed.