

FACT SHEET

Our role in local government rate-setting - special variations

October 2013

Purpose

This fact sheet provides guidance to NSW councils that are considering applying for a special variation in 2014/15.

It discusses the information that councils need to provide to IPART to demonstrate that they meet the assessment criteria set by the Division of Local Government, Department of Premier and Cabinet.

Who is IPART?

IPART is the State's main independent regulator. We set prices and/or license certain water, electricity, gas and transport businesses; we administer the Energy Savings Schemes; and we also have a role in setting local council rates. We are also an economic and policy think tank for the Government, similar to the Productivity Commission at the Commonwealth level.

We have a Tribunal and a Secretariat.

The Tribunal is the decision-making body. It comprises up to 3 members. Currently it has 3 members:

Dr Peter J. Boxall AO	Chairman
Mr Simon Draper	Part Time Tribunal Member
Dr Paul Paterson	Part Time Tribunal Member

The Secretariat includes the staff of IPART. The Secretariat undertakes analysis for the Tribunal and provides administrative support to the Tribunal.

What is our role in local government rate setting?

In 2010, the Government delegated to IPART the function of regulating council rate increases. This includes:

- ▼ determining the rate peg (the maximum allowable increase in Local Government general income for most councils)
- ▼ establishing a Local Government Cost Index to be used in setting the rate peg
- ▼ reviewing applications from councils for special rate variations and determining special rate variations
- ▼ reviewing applications from councils for minimum rates above the statutory limit and determining minimum rate increases.

As the Minister for Local Government delegated these functions to us, we are the decision-making body and we do not need the approval of any other body to make our determinations.

What is rate pegging?

Since 1977, council rate revenue and certain other council revenues have been regulated in NSW under an arrangement known as 'rate pegging'.

Rate pegging allows all councils to increase their total rate revenue in line with the annual change in the rate peg. The rate peg is a percentage amount that is set each year. Previously, the Minister for Local Government set the rate peg. Since 2011/12, it has been set by us, mainly based on an index of typical council costs. The rate peg percentage for 2013/14 is 3.4%. We will announce the rate peg for 2014/15 in early December 2013.

The rate pegging system also provides flexibility for individual council circumstances by allowing councils to apply to IPART for a special variation. Special variations allow councils to seek to increase their rates by more than the rate peg, after engaging with their communities as part of their Integrated Planning and Reporting.

How can individual rates go up by more than the rate peg?

The rate peg applies to the council's total general income, not the rates that individual ratepayers pay. General income mainly comprises rates revenue, but also includes certain annual user charges.

Councils have the discretion to set rate levels for different categories of ratepayers eg, residential and business categories. Therefore, rates that individual households or businesses pay will not necessarily increase in line with the rate peg.

In addition, changes in land valuations may impact on the rates actually payable by individual households or businesses but they do not add to a council's general income.

What is a special rate variation?

The *Local Government Act 1993* allows councils to apply for a special rate variation. A special rate variation allows councils to increase general income by more than the rate peg.

Councils may apply for a special rate variation for a range of reasons such as:

- ▼ improving the financial position of the council, particularly where there may be financial sustainability issues
- ▼ funding the development and/or maintenance of essential community infrastructure or to reduce backlogs in asset maintenance and renewal
- ▼ funding new or enhanced services to meet growing demand in the community
- ▼ funding projects of regional significance, and
- ▼ covering special or unique cost pressures that the council faces.

The 2 types of special rate variations that a council may apply for under the Act are:

- ▼ an increase in a single year (under section 508(2))
- ▼ increases over 2 to 7 years (under section 508A). These will be cumulative; for example, the cumulative increase of 5% per annum for 4 years is 21.6%.

How will we assess applications for special rate variations?

Councils are to submit their applications for special variations to us by 24 February 2014. A list of the councils that apply and the details of their applications will be published on our website.

We will assess each application in accordance with the *Guidelines for the preparation of an application for a special variation to general income for 2014/15* (the Guidelines) issued by the Division of Local Government (DLG), Department of Premier and Cabinet on 30 September 2013. The Guidelines are updated each year. They are available on both the DLG's and our websites.

Once we have completed our assessment, we decide whether to approve, approve in part or reject the special rate variation. We expect to announce our decisions in mid-June 2014.

We notify councils by letter regarding the outcome of their application. We also publish the reasons for our decision, and any conditions attaching to it, in a report, which we post on our website.

What are the criteria that we use to assess applications?

The criteria that we will use to assess special variations from 2014/15 are set out in the special variation Guidelines and are reproduced below (Box 1).

Box 1 Assessment criteria for applications for 2014/15

1. The need for and purpose of a different revenue path (as requested through the special variation) is clearly articulated and identified through the council's Integrated Planning and Reporting (IP&R) documents, including its Delivery Program and Long Term Financial Plan. Evidence for this criterion could include evidence of community need/desire for service levels/project and limited council resourcing alternatives and the council's financial sustainability conducted by the NSW Treasury Corporation. In demonstrating this need councils must indicate the financial impact in their Long Term Financial Plan applying the following two scenarios:
 - a) Baseline scenario – revenue and expenditure forecasts which reflect the business as usual model, and exclude the special variation, and
 - b) Special variation scenario – the result of approving the special variation in full is shown and reflected in the revenue forecast with the additional expenditure levels intended to be funded by the special variation.
 2. Evidence that the community is aware of the need for and extent of a rate rise. This must be clearly spelt out in IP&R documentation and the council must demonstrate an appropriate variety of engagement methods to ensure opportunity for community awareness/input. The IP&R documentation should canvas alternatives to a rate rise, the impact of any rises upon the community and the council's consideration of the community's capacity and willingness to pay rates. The relevant IP&R documents must be approved and adopted by the council before the council seeks IPART's approval for a special variation to its general income.
 3. The impact on affected ratepayers must be reasonable, having regard to both the current rate levels, existing ratepayer base and the proposed purpose of the variation. Council's IP&R process should also establish that the proposed rate increases are affordable having regard to the local community's capacity to pay.
 4. The proposed Delivery Program and Long Term Financial Plan must show evidence of realistic assumptions.
 5. An explanation of the productivity improvements and cost containment strategies the council has realised in past years, and plans to realise over the proposed special variation period.
 6. IPART will assess each application based on its merits against criteria 1 to 5 above. In doing so, IPART will consider:
 - size and resources of the council
 - size (both actual \$ and %) of increase requested
 - current rate levels and previous rate rises
 - purpose of the special variation; and
 - any other matter considered relevant in assessing a special variation application.
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The Guidelines for 2014/15 have changed from the previous year in 3 main respects:

- ▼ Councils must submit both a special variation scenario and a 'business as usual' scenario in their Long Term Financial Plans.
- ▼ Councils must have adopted their relevant Integrated Planning and Reporting (IP&R) documents before submitting an application for a special variation.
- ▼ Where a council is not able to incorporate its special variation into its IP&R documents, it may apply for an exemption from this requirement. However, this would only occur in exceptional circumstances.

Special Variations and Integrated Planning and Reporting

The NSW Government introduced the IP&R framework to improve councils' long term planning; integrate community, financial and asset planning; and to improve council accountability. All councils have now implemented the IP&R framework. This means that they have:

- ▼ Identified and planned for funding priorities, asset management and service levels following engagement with their communities. One way these priorities might be paid for would be through a special variation in rates.
- ▼ Developed a set of plans in consultation with their communities, including a Community Strategic Plan, a Long Term Financial Plan (both for at least a minimum of 10 years), and a 4-year Delivery Program and 1-year Operational Plan with accompanying budgets. Any proposed special variation would be reflected in the Delivery Program and Long Term Financial Plan.
- ▼ Established a series of reporting processes.

Following council elections, each council is to review their IP&R documents.

Further information on the IP&R Framework may be found in DLG's *Integrated Planning and Reporting Guidelines for local government in NSW* and *Integrated Planning and Reporting Manual*. Both are available on the DLG website.

What information do councils provide to us?

Councils provide evidence that shows that they have met the criteria of assessment in the special variation Guidelines. If a council has effectively developed its IP&R documents in consultation with its community, it should be in a position to demonstrate to us that it has extensively engaged with its community about:

- ▼ its financial position and projections
- ▼ the community's service delivery and expenditure priorities
- ▼ the community's capacity and willingness to pay higher rates.

A council's IP&R documents, particularly the Delivery Program, Long Term Financial Plan, Asset Management Plans and Community Engagement Strategy, should provide sufficient information to meet most of the criteria for assessing an application.

We have developed specific application forms (in 2 parts: Part A and Part B) to indicate the type of information that should accompany the applications. The forms are posted on our website. They also outline other information that we require for assessing an application. Among other things, this includes information on:

- ▼ the rating structure
- ▼ the impact on rates of the special variation
- ▼ the council's track record on productivity improvements and cost containment strategies, and its plans for future gains in these areas.

The amount of information that councils are to provide under each criterion is a matter for the council to decide. The information provided should be sufficient to assist us in assessing the application against each criterion. In general, the information provided should be proportional to the size or complexity of the special variation being requested. For example, a proposed rate increase that is relatively small would need less supporting evidence than large ones.

Criterion 1: Need for the variation

The council must demonstrate that the additional rate revenue is needed. The demonstration is to be based on the council's IP&R documents, where relevant.

The criterion requires councils to provide evidence that includes:

- ▼ the community's need and/or desire for higher levels of service or particular projects to be delivered by the council
- ▼ that the council has examined alternatives to a rate rise
- ▼ that the council has considered its current and projected financial sustainability.

Criterion 2: Community awareness and engagement

The council must provide evidence from its IP&R documents that its community is aware of the need for, and extent of, a rate rise through an appropriate variety of engagement methods and that the engagement has provided it with community feedback on the relevant issues.

The IP&R documents should also show that the council has engaged on:

- ▼ alternatives to a rate rise
- ▼ how the special variation is expected to affect rates

- ▼ a consideration of the community's capacity and willingness to pay.

Criterion 3: Impact on ratepayers

We are required to assess whether the impact of the special variation on ratepayers is reasonable. We therefore ask councils to show us why they consider the impact on ratepayers to be reasonable.

We also consider the size of the rate increase, current rate levels, the existing ratepayer base and the proposed purpose of the variation. In addition we consider whether the proposed rate increases are affordable.

In making our assessment, we will consider trends in a range of socioeconomic indicators, both within an LGA over time and with other relevant council areas.

Criterion 4: Delivery Program and Long Term Financial Plan assumptions

The assumptions underpinning the Delivery Plan and LTFP must be realistic if those plans are to be the strategic and financial justification for the application.

We will assess all the assumptions that underpin the projections, including the proposed scope and level of service delivery and the council's estimate of growth in population and assessments in the LGA.

Criterion 5: Productivity improvements and cost containment strategies

We will examine the evidence of productivity improvements and cost savings made, and to be made, by the council. The range of improvements may include re-prioritising various services and the levels of service provision, re-organising/reducing labour and capital inputs, and reviewing organisational structures or services to be delivered.

We will also consider trends in various productivity indicators across time for the council and compare them to other relevant councils.

Can residents and ratepayers make submissions directly to us?

We do not hold public hearings as part of our assessment of applications. Rather, the Guidelines require each council to engage with its community on its expenditure and revenue plans as part of its Integrated Planning and Reporting process.

We therefore encourage members of the community to participate in their council's IP&R community consultation and engagement processes. Councils will have to demonstrate to us that they have engaged with their communities and listened to the input that they have received.

Although we do not solicit them, we will accept and consider submissions from interested groups or individual ratepayers regarding special variations for up to 4 weeks after the deadline for council applications. Thus, interested groups and ratepayers must make a submission by 24 March 2014.

We prefer ratepayers to lodge submissions using our electronic submission facility that is available on our website during the submission period. This may be accessed alongside each council's application at:

http://www.ipart.nsw.gov.au/Home/Industries/Local_Govt/Special_Variations_and_Minimum_Rates/Applications_Determinations

However, if you wish to post your submission to us, our address is:

Local Government Team
Independent Pricing and Regulatory Tribunal of NSW
PO Box Q290
QVB Post Office NSW 1230

If you wish to use email, our address is: localgovernment@ipart.nsw.gov.au.

We will ask your permission to post your submission on our website. If you make an online submission you will be prompted to indicate that you agree to it being posted, or you may request confidentiality. Submissions that we post will only show the author's name; all other contact details will be removed.


Do other parties play a role in deciding special rate variations?

We make all the decisions regarding special variations using the criteria set by the DLG and the content of the Guidelines. DLG may also provide input into the assessment process, particularly regarding a council's rating structure and the value of previously approved special variations.

We base each decision on the evidence provided in the application and any other material that we consider relevant. Other relevant material will include submissions from the community (including letters from parliamentarians and local councillors) and material from a range of other sources such as local media reports.

What are the steps for councils that are considering applying?

- ▼ Step 1 – Call us to discuss the application (phone 9113 7710) and consider meeting with us before the official notification date (13 December 2013).
- ▼ Step 2 – download the Guidelines from DLG's website and the application forms (Parts A and B) from our website at www.ipart.nsw.gov.au.
- ▼ Step 3 – ensure that the council can meet the criteria in the Guidelines.

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- ▼ Step 4 - Register on our Council Portal and submit your notification letter to us by 13 December 2013 indicating your council's intention to apply for a special rate variation.
 - ▼ Step 5 - Complete application forms Part A and B and submit these and any other application material via the Portal. This can be done progressively and saved on the Portal from the notification date. Completed applications for special rate variations must be submitted by 24 February 2014.

Want more information?

Refer to the Guidelines or contact us on 9113 7710. We also publish fact sheets on community awareness and engagement and the process for applying for an increase in minimum rates.