



## FACT SHEET

# Our role in local government rate-setting - special variations

April 2014

### 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.

Dr Peter J. Boxall AO	Chairman
Dr Paul Paterson	Part Time Tribunal Member
Ms Catherine Jones	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 2014/15 is 2.3%. We will announce the rate peg for 2015/16 in early December 2014.

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 will publish a Determination which outlines the reasons for our decisions.



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).

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**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?**

The primary avenue for community consultation is through each council's planning processes. 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. Councils will have to demonstrate to us that they have engaged with their communities and listened to the input that they have received.

We do not hold public hearings as part of our assessment of applications. Rather, we encourage members of the community to participate in their council's community consultation and engagement processes.



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. For 2014, this date is 24 March 2014. We will only accept submissions received by this closing date.

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](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](mailto: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. We will only post submissions that have been received during the one month period after the application due date. With your approval, we will post your submission on our website after the submission period is closed. 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](http://www.ipart.nsw.gov.au).

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- ▼ Step 3 – ensure that the council can meet the criteria in the Guidelines.
  - ▼ 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.

## FACT SHEET FOR COUNCILS

# Community awareness and engagement for special variation applications

October 2013

### Purpose

This fact sheet provides guidance to councils on how we will assess applications for special rate variations against the second criterion in 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) on 30 September 2013. Criterion 2 states that councils must provide:

Evidence that the community is aware of the need for and extent of a rate rise. This should be clearly spelt out in Integrated Planning and Reporting (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 revenue.

### How will we assess the community awareness and engagement criterion?

In assessing whether a council's application satisfies the community awareness and engagement criterion, we will consider the following principles:

- ▼ that the council clearly communicated the full impact of the proposed rate increases to ratepayers
- ▼ that the council clearly communicated what the special variation will fund. The uses of the funds may vary across various items of operating expenditure, improve operating balances (and financial sustainability) and fund capital spending that improves the rate of renewals or reduces asset backlogs. The funds might also be used to make loan repayments or to build up asset reserves.

Specifically, we will consider whether:

- ▼ the council's adopted IP&R documents demonstrate that the community is aware of the need for, and extent of, the rate rise
- ▼ the council has demonstrated an appropriate variety of engagement methods to ensure community awareness and input into the special variation process
- ▼ the council's adopted IP&R documents canvas:
  - alternatives to a rate rise
  - the impact of any rate rises upon the community
  - the council's consideration of the community's capacity and willingness to pay.

Evidence of awareness and engagement should be proportionate to the size and impact of the proposed rate rise.

### **What do councils need to do?**

Councils should follow the IP&R guidance material (eg, the *Integrated Planning and Reporting Manual*) in developing a Community Engagement Strategy to consult with the community on its Community Strategic Plan, Delivery Program and Resourcing Strategy.

These plans provide councils with a framework for consulting with their communities on expenditure priorities and their willingness to pay for rate increases above the projected rate peg.

The council must adopt the relevant IP&R documents before the application for a special variation is submitted.

### **What information needs to be presented to ratepayers?**

Effective community awareness and engagement means that the community is informed about the special variation application, and not just a small section of it. The criterion states that councils should use an appropriate variety of engagement methods to ensure opportunity for community awareness/input. These may include:

- ▼ mail outs to ratepayers
- ▼ fact sheets
- ▼ media releases
- ▼ public meetings
- ▼ listening posts
- ▼ online discussion forums
- ▼ surveys.

Councils should choose methods that reflect the size and impact of the proposed rate increase, and the resources of the council. For example, for a relatively small increase, evidence of community awareness of the need for, and extent of, the rate rise could include press statements or articles published by the council. In this situation it is not necessary for the council to undertake a random survey of residents/ratepayers. For larger increases, the council should have a more comprehensive awareness and engagement program.

In all cases, the council should seek feedback from its community and report the feedback it receives to us in its application for a special variation. Some relevant feedback may have occurred in response to the council's IP&R process. The council should show how it has considered and responded to issues of common concern to the community.

The council must present information in a way that community members can understand, explaining why the special variation is being sought. For example, it may be to lift service standards, to undertake a program of works, to reduce infrastructure backlogs, or to improve financial sustainability.

Councils must be able to show that they have fully disclosed all the relevant information to the community and clearly identified the impact of the proposed rate increase on ratepayers. Information must show:

- ▼ the requested percentage increase(s) *including* the rate peg
- ▼ the full cumulative impact on rates (if the special variation is for 2 or more years)
- ▼ if the increases are to be temporarily or permanently retained in the rate base
- ▼ if the council has an expiring special variation and how this will affect ratepayers and the percentage special variation it proposes to apply for (further guidance on expiring special variations is on page 5 below)
- ▼ rates and rate increases on an annual (not just daily or weekly) basis
- ▼ increases in other charges, where these are likely to exceed CPI increases.

Councils should also explain the effect on rates and services if the special variation were not approved. For example if reductions in particular services are likely, or if certain projects will not go ahead if the special variation does not proceed, this should be made clear to ratepayers. Councils will need to present a realistic scenario to the community. Councils should not present a worst-case scenario or threaten ratepayers with unrealistic cuts in the most popular community services.

Best practice engagement would present the community with more than an 'all or nothing' choice. Preferably, consultation material will measure the level of community support for different programs of expenditure by allowing respondents to rank services and/or proposed works in order of priority. Feedback from the community is essential and the views that the council obtains should, as far as practicable, be representative of those of the community as a whole.

### How should community input and willingness to pay be captured?

There are a number of ways that councils may capture community feedback/input. These include:

- ▼ a mail-out to all ratepayers with a reply-paid survey
- ▼ an online survey
- ▼ a random survey of ratepayers, appropriately stratified to capture the population characteristics of the LGA
- ▼ resident workshops
- ▼ online discussion forums
- ▼ discussions with particular community groups.

It is a matter for each council to decide whether a stratified random survey is useful as part of its community awareness and engagement program. IPART is aware that the costs involved in undertaking a comprehensive community consultation program, and in particular surveys, can be significant. Generally, the nature and extent of the consultation program undertaken should be commensurate with the size of the special variation being sought, and the resources of the council.

Where a council is seeking a large rate increase and decides to undertake a survey, it is important that the survey sample is representative of the relevant population, and is of sufficient size to generate statistically reliable results. The survey questionnaire should provide respondents with clear and transparent information on the special variation and what it is to fund, and should not use leading questions.

### How should the outcomes of community engagement be reported?

As part of a special variation application, a council must demonstrate an appropriate variety of engagement methods to ensure opportunity for community awareness and input/feedback.

The information should clearly identify:

- ▼ key stakeholders in the consultation process
- ▼ the information that was presented to the community regarding the special variation proposal
- ▼ methods of consultation used by the council and why these were selected.

The council must also provide a summary of the outcomes from community engagement, as presented in the council's IP&R documents. For example:

- ▼ the number of attendees at workshops or meetings
- ▼ the percentage of respondents supporting, in various degrees, the proposal(s)
- ▼ the overall sentiment of representations
- ▼ the results of surveys, if undertaken
- ▼ any action proposed by the council to address issues of common concern.

### **Additional Guidance for Expiring Special Variations**

When a council is renewing an existing special variation that is due to end, this can make the explanation of the variation amount more complex.

There are up to 3 amounts to consider: the value of the expiring variation, the value of the rate peg and the value of any additional variation amount above the rate peg.

Councils should inform their communities:

- ▼ that an existing special variation is about to expire or will do so during the period covered by the application for a special variation
- ▼ if applicable, that a temporary expiring special variation is being replaced with a permanent increase to the rate base
- ▼ if this is so, the council should also state that the proposed special variation includes the value of the expiring special variation and the additional rate increase being sought by the council
- ▼ that the year-on-year impact on rates would not be as great or that rates may fall if the special variation is not approved and only the rate peg is applied after the existing special variation ceases.

Councils should note that percentage special variation being requested will be higher than the year-on year-percentage change in rate levels. An example is given in the next section.

### **Demonstrating the impact of an expiring special variation on rates**

Councils should use comparisons of year-on-year changes in average rates (or across bands of rate levels based on land values) both with and without the special variation, to show the impact of the special variation being sought. These comparisons should also clearly show the impact of any expiring variations. The material should also clearly show the cumulative rate increase over the period of the special variation.

As an example, consider Table 1. This is a worked example for the benefit of councils and assumes:

- ▼ a council which has only 1 residential rate averaging \$1,000 in 2013/14 and 1 business rate averaging \$3,000 in 2013/14. We have assumed that the same percentage increases would be applied to average residential and business rates
- ▼ a rate peg of 3.0% per annum over the period
- ▼ an application for a special variation of 6.5% per annum for 4 years
- ▼ an existing special variation that will expire on 30 June 2015, and is not renewed or replaced. For simplicity, we have assumed that the expiring special variation (ESV) is equal to 4% of the 2014/15 rate base. This percentage is deducted from the rates base before the rate peg or SV is applied in 2015/16.

**Table 1 Impact on average rates of a special variation with an expiring special variation**

	2013/14	2014/15	2015/16	2016/17	2017/18	Cumulative % rise over the 4 years
Residential rates under the rate peg	\$1,000	\$1,030	\$1,020	\$1,050	\$1,082	8.2
Residential rates with the SV	\$1,000	\$1,065	\$1,092	\$1,163	\$1,238	23.8
Impact of SV*		\$35	\$72	\$112	\$156	
Cumulative impact of SV*		\$35	\$107	\$219	\$376	
Business rates under the rate peg	\$3,000	\$3,090	\$3,059	\$3,151	\$3,245	8.2
Business rates with the SV	\$3,000	\$3,195	\$3,275	\$3,488	\$3,714	23.8
Impact of SV*		\$105	\$216	\$337	\$469	
Cumulative impact of SV*		\$105	\$321	\$658	\$1,127	


\* above the level of rates that would be reached under the rate peg

The first line in each rate category shows how average rates would rise under the rate peg, allowing for the existing special variation to expire on 30 June 2015 before the rate peg is applied for 2015/16.

The second line in each category shows how average rates would rise if the special variation were approved, again allowing for the expiring special variation.

A cumulative rise in general income of 3.0% per annum (the rate peg) over 4 years is 12.6% and a cumulative rise in general income of 6.5% per annum (the special variation) for 4 years is 28.6%. However, the cumulative rise in *rates* will only be





8.2% under the rate peg and 23.8% under the special variation. The lower cumulative rise in rates is caused by a reduction in rates that occurs when the expiring special variation drops out at the start of 2015/16.

The effect of expiring special variations is often difficult to explain to ratepayers, but it may be a significant factor in determining the cumulative effect of the proposed special variation on rates. In terms of the application by the council to us, it must apply for the full 28.6% rise. It will then have to explain to ratepayers that the rise in rates will be less than this because of the effect of the expiring special variation.