



Independent Pricing and Regulatory Tribunal

## **Minimum Rate Increase above Statutory Limit - Application Form Part B**

### **GUNDAGAI SHIRE COUNCIL**

Date Submitted to IPART: 20 March 2012

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## Rationale for the increase in minimum rates

The purpose of this application is to seek approval for a Special Rate “Minimum” amount greater than the \$2 figure identified at Sub-Section 548 (3) of the Local Government Act (LGA) 1993.

IPART entertained a similar request for 2012/13 where it approved an application by Council for a minimum Town Improvement District Special Rate of \$191.40.

The Rate relates to the TID Fund which dates back to 1924 and it would appear its establishment was linked to the amalgamation of the Gundagai Municipal Council and the surrounding rural area known as the Adjungbilly Shire Council. It is believed the Fund has been treated as a General Fund for its entire history save for the last two years, with expenditure limited to the town area (identified in the Government Gazette) and principally taking the forms in more recent times of: \_

- contribution of NSW Fire Brigade services to the township,
- costs associated with servicing a special TV translator to provide coverage in black spot areas around the township,
- costs associated with kerb and guttering, stormwater drainage and footpath reconstruction, and
- Streetlighting costs,

but not limited to these.

As the fund was considered to be a General Fund the rules governing rate pegging, minimum rates and the like have been applied to the TID Rate over time. Consistent with this approach the resolutions (certainly in the last 30 or so years), adopting the Rate and Minimum Rate have referred to the Rate being an Ordinary Rate. It is understood it was indeed considered to be an Ordinary Rate in the legislation until 1993, at which stage the old Act was repealed.

In early 2009 the Department wrote indicating in its view the rate may be a Special Rate however it went on to permit the rate to be treated as an Ordinary Rate for 2009/10 - suggesting to Council there was a divergence in views within the Department on the classification of the rate.

In order to clarify the issue for 2010/11 Council actually named the rate a “Special Rate” in its resolution to adopt the rate and in doing so sought Ministerial approval for a minimum rate of \$179.80 per sub-Section 548 (3). The basis for this figure was simply the permitted minimum for 2009/10 of \$175.20, expanded by the rate peg increase of 2.6% for 2010/11. Approval was provided. At the same time the

Department suggested Council should visit its rating structure with a view to assessing the suitability of a differential Ordinary rate for the township area instead of two separate rates. Accordingly the Council did as requested however at its Ordinary Meeting of 8 March 2011 it decided to maintain the two Funds (General Fund and TID Fund) and as an extension of this decision sought approval for a minimum of the Special Rate for the TID Fund of \$184.80 for 2011/12. Again this amount was calculated on the same basis as in 2010/11 year i.e. current year amount extended by the rate peg determination. An application for an increase along the same lines was approved by IPART for 2012/13, yielding an increase in the minimum of \$6.60 to \$191.40.

Council resolved at its Ordinary Meeting of 12 March 2013 to seek permission from IPART to apply a minimum Town Improvement District Special Rate of \$197.85 for 2013/14. Prior to making this resolution Council had sought public submissions in relation to its proposal to seek an increase in the minimum rate however no submissions were received.

The logic behind the increase is in line with past years practice, namely the amount simply represents an increase in the approved "rate peg" amount.

## Impact on ratepayers

The requested \$6.80 increase in the minimum over 2012/13 is considered to have an insignificant impact on ratepayers firstly in terms of its nominal nature and secondly in the context that it mirrors past practice.

Reference is made in the Application material under point 3 that an application is unlikely to be supported if it will result in more than 50% of ratepayers within the category paying the minimum. In this case the position is:-

Year	No Assessment	Revenue
2010/11	581 56% Min	\$104,464 46.6% Min
	<u>456</u> 44% Ad val	<u>\$119,756</u> 53.4% Ad val
	<u>1037</u>	<u>\$224,220</u>
2011/12	581 56% Min	\$107,368 46.6% Min
	<u>456</u> 44% Ad val	<u>\$123,118</u> 53.4% Ad val
	<u>1037</u>	<u>\$230,486</u>
2012/13	636 61% Min	\$121,730 51.6% Min
	<u>408</u> 39% Ad val	<u>\$114,051</u> 48.4% Ad val
	<u>1044</u>	<u>\$235,781</u>
2013/14	666 62% Min	\$131,768 52.8%
	<u>406</u> 38% Ad val	<u>\$117,574</u> 47.2%
	<u>1,072</u>	<u>\$249,342</u>

The Division of Local Government recently raised the “50% of ratepayers issue” with Council in relation to the Ordinary Rate Residential sub-category where in 2010/11 the number of assessments subject to the minimum totalled 56%. In responding to this approach Council indicated, amongst other things, that the Local Government Act stipulates at S.500 the “base amount” shall not exceed 50% of the total levy however no reference to this position is made in the Act in respect of Minimum rates. Council mentioned it believes this may very well indicate that a conscious

decision was made in respect of applying the 50% rule and as part of such it was argued the rule not apply to minimum rates per S.548. Council suggested given this it could well be argued that the Departments interpretation of the "50% rule" is somewhat liberal.

Interestingly in a subsequent discussion between Council's former General Manager and Mr Healy of the Division of Local Government he advised the Division is happy with the position provided Council believes the structure is fair and equitable.

Finally, Council does not have a formal "hardship policy", rather it treats matters on a case by case basis. Having said that it does provide a number of payment options to ratepayers experiencing difficulties in making payments ranging from "time to pay" to agreed periodic direct debiting of bank accounts.

## Consultation

As explained earlier the TID Fund has been in existence since 1924 and from that time till 2009/10 the rate levied in respect of the Fund was treated as an Ordinary Rate. This claim is supported by the fact that the resolutions (at least from 1993) specifically referred to it being an Ordinary Rate. Further, as part of the Management Plan process a draft containing details of rates, their minimums etc has been placed on display for public information at Councils office and in more recently on Council's web site. No objections / submissions have been lodged with Council regarding the intended rating structures and related minimums, at least since the introduction of the 1993 Act.

The draft Management Plan and related budget for 2013/14 are still under preparation, accordingly it is not possible to include the documents with this application.

Further, as advised previously, on this occasion Council did invite submissions from the public in respect of its intention to seek approval from IPART to increase the minimum TID Special Rate to \$197.85 from \$191.40.

Copies of the invitations listed in the Gundagai Independent (local newspaper) on 25 and 28 February 2013 are attached for your purposes.

## Council resolution

At its Ordinary Meeting of 8 March 2011 Council resolved to continue with the Town Improvement District Fund and its Special Rate along side the standard Ordinary Rate for the General Fund, rather than move to a “differential Ordinary Rate” for the Gundagai township area.

At its Ordinary Meeting of Tuesday 12 March 2013 Council resolved to seek IPART approval to apply a minimum Town Improvement District rate of \$197.85, representing a 3.37% increase over the 2012/13 minimum. The Minutes of this Meeting are yet to be adopted by Council however a “draft” of such has been provided for your purposes.



## Certification by the General Manager and the Responsible Accounting Officer

I certify that to the best of my knowledge the information provided in this application is correct and complete.

Acting General Manager (name): Mr Phil McMurray

Signature/date:

Responsible Accounting Officer (name): Mr Paul Luff

Signature/date:

Once signed, this certification must be scanned and emailed to [localgovernment@ipart.nsw.gov.au](mailto:localgovernment@ipart.nsw.gov.au)