

Independent Pricing and Regulatory Tribunal  
New South Wales

# Report on IPART's functions in relation to local government in 2016-17

## Report to Ministers



© Independent Pricing and Regulatory Tribunal of New South Wales 2017

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

ISBN 978-1-76049-154-3

The Tribunal members for this review are:

Dr Peter J Boxall AO, Chair

Mr Ed Willett

Ms Deborah Cope

Inquiries regarding this document should be directed to a staff member:

Lucy Garnier (02) 9290 8488

Derek Francis (02) 9290 8421

Nicole Haddock (02) 9290 8426

# Contents

<b>1</b>	<b>Overview</b>	<b>1</b>
<b>2</b>	<b>Variation of councils' general income (the rate peg)</b>	<b>1</b>
2.1	The Local Government Cost Index	2
2.2	The productivity factor	2
<b>3</b>	<b>Determining councils' applications for special rate variations</b>	<b>2</b>
<b>4</b>	<b>Minimum amounts of council rates</b>	<b>5</b>
<b>5</b>	<b>Domestic waste charges</b>	<b>5</b>
<b>6</b>	<b>Assistance to the Minister for Planning</b>	<b>6</b>
6.1	Reviews of contributions plans	6
6.2	Policy framework	7
<b>7</b>	<b>Assistance to the Minister for Local Government</b>	<b>8</b>
7.1	Section 9 Review of the local government rating system	8
<b>8</b>	<b>IPART's structure for undertaking local government functions</b>	<b>9</b>
	<b>Appendices</b>	<b>11</b>
A	Terms of reference delegating functions to IPART	13
B	Terms of reference for the review of local government rating system	23
C	Reports and papers released during 2016-17	26
D	Components of the Local Government Cost Index	27
E	Summary of rate variations requested by councils and IPART's decisions	28



# 1 Overview

The NSW Government has delegated various local government rate-setting and planning functions to the Independent Pricing and Regulatory Tribunal of NSW (IPART).

The NSW Government requires IPART to report on these functions to the Minister for Local Government and the Minister for Planning by 31 October each year. This report on the 2016-17 financial year covers:

- ▼ Functions delegated under the *Local Government Act 1993* (the Act), regarding:
  - any variation of councils' general income, including development of the local government cost index (LGCI) and the productivity factor
  - special rate variation applications from councils, and
  - domestic waste charges levied by councils.
- ▼ Assistance to the Minister for Planning in relation to the *Environmental Planning and Assessment Act 1979* (EP&A Act), including reviews of contributions plans.

IPART's functions are based on terms of reference issued by the Premier under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* (IPART Act), and the delegation of various powers under the Act by the Minister for Local Government. The terms of reference and delegation are in Appendix A.

In addition, we reviewed the local government rating system in NSW following a request from the Premier under section 9 of the IPART Act (see Appendix B). Our final report was provided to the Government in December 2016.

A list of all the reports and papers related to the local government functions that we have published during 2016-17 is in Appendix C.

## 2 Variation of councils' general income (the rate peg)

The Minister for Local Government delegated to IPART the power under section 506 of the Act to specify the percentage by which councils' general income<sup>1</sup> for a specified year may be varied. The percentage change is known as the rate peg.

IPART announced a rate peg of 1.5% for 2017-18 on 29 November 2016.<sup>2</sup>

The calculation of the 2017-18 rate peg was based on:

- ▼ an increase in the LGCI of 1.47%, and
- ▼ a deduction of 0.001% to reflect the change in productivity (see Section 2.2).

---

<sup>1</sup> General income mainly comprises income from council rates, but also includes certain other annual council charges.

<sup>2</sup> IPART, *Media Release – 2017-18 rate peg for NSW local councils*, 29 November 2016. An order to this effect, signed by the Chairman of IPART and dated 23 November 2016, was published in the NSW Government Gazette: *Government Gazette of the State of New South Wales*, 2 December 2016, number 104, p 3422.

This calculation resulted in a rate peg of 1.47%, which we rounded to 1.5%. We published a Fact Sheet on this decision on our website.<sup>3</sup>

## 2.1 The Local Government Cost Index

The Local Government Cost Index (LGCI) measures the changes in prices over the past year for a basket of goods and services, materials and labour used by an average council.<sup>4</sup> The basket is made up of 26 components covering councils' operating and capital costs. The cost components represent the purchases made by an average council to undertake its typical activities.

We constructed the LGCI in 2010 based on a survey we undertook of NSW councils' expenditure. The 2015 cost survey updated the expenditure weightings to ensure the relativities of the cost items within the LGCI remain accurate. We used this updated LGCI to calculate the rate peg for 2017-18.

To measure the change in prices of the components, we use price data from the most relevant Australian Bureau of Statistics (ABS) consumer, producer or wage price index.<sup>5</sup> The components of the LGCI, their weights, the percentage change in prices for the year to September 2016, and their overall contribution to the LGCI are set out in Appendix D.

## 2.2 The productivity factor

The productivity factor allows ratepayers to share in the efficiency gains made by councils. We used the Australian Bureau of Statistics (ABS) market-sector value added multifactor productivity based on quality adjusted hours worked. Based on this methodology, average productivity increased by 0.001%.<sup>6</sup> We applied this deduction to the LGCI when calculating the rate peg for 2017-18. However, this had no material impact on the LGCI and therefore no effect on the rate peg for 2017-18.

# 3 Determining councils' applications for special rate variations

The Minister for Local Government delegated to IPART functions to approve increases to general income that exceed the rate peg (a special rate variation). The Act provides for two types of special variation:

<sup>3</sup> IPART, *Fact Sheet – Rate peg for NSW councils for 2017-18*, 29 November 2016.

<sup>4</sup> More detail on the LGCI is in IPART, *Information Paper - Local Government Cost Index*, December 2010.

<sup>5</sup> For the 'emergency services levies' component we construct our own price index.

<sup>6</sup> For more information on the productivity factor see IPART, *Fact Sheet – Productivity factor for cost indices*, October 2014.

- ▼ a single year increase under section 508(2) (either permanent or for a fixed number of years), and
- ▼ successive, annual increases (for between two and a maximum of seven years) under section 508A.

Increases to council general income due to a Crown land adjustment are also approved under section 508(2).<sup>7</sup>

### **Determination of the applications**

In February 2017 IPART received applications from eight councils for a special variation to apply from 1 July 2017.

We assessed the special variation applications against criteria in guidelines set by the Office of Local Government (OLG), which were published in December 2016.<sup>8</sup> Box 3.1 sets out the criteria in the guidelines.

IPART approved the two single-year special variation applications under section 508(2) in full. We also approved two of the six multi-year SV applications under section 508A in full, and two were partially approved. Two applications were not approved as the councils did not adequately communicate the full impact of the proposed special variations to their communities.

In addition, we approved Crown land adjustments to general income for four councils under section 508(2).

In March 2017 parliament passed legislation which allowed Mid-Coast Council to apply for, and IPART to assess, a special variation for 2017-18. IPART received this application on 1 June 2017. We approved the application, with a minor variation, on 21 July 2017.

The outcomes of IPART's assessments are in Table E.1 and Table E.2 in Appendix E.

---

<sup>7</sup> Crown land adjustments allow councils to increase their general income to reflect additional rate revenue from land that was previously Crown land becoming rateable through sale to private individuals or transfer to particular State Owned Corporations. OLG assesses councils' requests for Crown land adjustments and makes recommendations to IPART about the appropriate percentage increase to general income.

<sup>8</sup> Office of Local Government, *Guidelines for the preparation of an application for a special variation to general income for 2017/18*, December 2016.

### Box 3.1 Assessment criteria for special variation applications for 2017-18

1. The need for, and purpose of, a different revenue path for the council's General Fund (as requested through the special variation) is clearly articulated and identified in the council's IP&R documents, in particular its Delivery Program, Long Term Financial Plan and Asset Management Plan where appropriate. In establishing need for the special variation, the relevant IP&R documents should canvas alternatives to the rate rise. In demonstrating this need councils must indicate the financial impact in their Long Term Financial Plan applying the following two scenarios:
  - Baseline scenario - General Fund revenue and expenditure forecasts which reflect the business as usual model, and exclude the special variation, and
  - Special variation scenario - the result of approving the special variation in full is shown and reflected in the General Fund revenue forecast with the additional expenditure levels intended to be funded by the special variation.

Evidence to establish this criterion could include evidence of community need/desire for service levels/project and limited council resourcing alternatives. Evidence could also include the assessment of the council's financial sustainability conducted by the NSW Treasury Corporation.

2. Evidence that the community is aware of the need for and extent of a rate rise. The Delivery Program and Long Term Financial Plan should clearly set out the extent of the General Fund rate rise under the special variation. The council's community engagement strategy for the special variation must demonstrate an appropriate variety of engagement methods to ensure community awareness and input occur. The IPART fact sheet includes guidance to councils on the community awareness and engagement criterion for special variations.
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. The Delivery Program and Long Term Financial Plan should:
  - clearly show the impact of any rises upon the community
  - include the council's consideration of the community's capacity and willingness to pay rates, and
  - establish that the proposed rate increases are affordable having regard to the community's capacity to pay.
4. The relevant IP&R documents must be exhibited (where required), approved and adopted by the council before the council applies to IPART for a special variation to its general income.<sup>a</sup>
5. The IP&R documents or the council's application must explain the productivity improvements and cost containment strategies the council has realised in past years, and plans to realise over the proposed special variation period.

<sup>a</sup> The relevant documents are the Community Strategic Plan, Delivery Program, Long Term Financial Plan and where applicable, Asset Management Plan. Of these, the Community Strategic Plan and Delivery Program require (if amended), public exhibition for 28 days. It would also be expected that the Long Term Financial Plan (General Fund) be posted on the council's web site.

**Source:** Office of Local Government, *Guidelines for the preparation of an application for a special variation to general income for 2017/18*, December 2016.



## 4 Minimum amounts of council rates

Section 548 of the Act provides for a council to set a minimum amount of a rate. Where a council sets a minimum rate, ratepayers in that rating category pay at least the minimum amount, regardless of the value of their land. There is a statutory limit on the minimum amount of a rate a council may impose. This statutory limit is different for ordinary rates and special rates.<sup>9</sup>

The Minister for Local Government delegated to IPART powers to specify the statutory limit of an ordinary rate. The statutory limit of an ordinary rate is changed by amending clause 126 of the *Local Government (General) Regulation 2005*.

IPART recommended for 2017-18 the statutory limit for the minimum amount of an ordinary rate should increase from \$506 to \$514 in line with the 1.5% rate peg increase. This approach is consistent with previous years. Clause 126 of the *Local Government (General) Regulation 2005* was amended, effective 1 July 2017.<sup>10</sup>

The statutory limit for the minimum amount of a special rate is \$2, but there is no power in the Act to amend it.<sup>11</sup>

Councils seeking to increase the minimum amount of a rate above the statutory limit must apply to IPART for approval. For 2017-18, we received no applications from councils to set the minimum amount of a rate above the statutory limit.

## 5 Domestic waste charges

The Minister for Local Government delegated to IPART powers to specify how councils can vary annual charges for domestic waste management services (similar to specifying the percentage change in general income).<sup>12</sup>

Councils must set domestic waste management charges that do not exceed the reasonable cost of providing the services.<sup>13</sup> OLG requires councils to have these charges independently audited to determine that they have been calculated on a 'reasonable cost' basis, and submit the audit to OLG as part of the council's annual Statement of Compliance return.

IPART did not impose any limitation on the amount by which councils could vary annual charges for domestic waste management in 2017-18, consistent with our decisions in previous years.<sup>14</sup> Councils will continue to set these charges to reflect the reasonable cost of providing such services, subject to audit and monitoring by OLG.

<sup>9</sup> *Local Government Act 1993*, ss 548(3) and 548(8).

<sup>10</sup> *Local Government (General) Regulation 2005*, cl 126, notified on the NSW legislation website on 10 March 2017.

<sup>11</sup> Unless prior Ministerial approval for a higher amount has been given as per Section 548(3)(b) of the *Local Government Act 1993*.

<sup>12</sup> Under sections 507 and 508(7) of the *Local Government Act 1993*.

<sup>13</sup> *Local Government Act 1993*, section 504(3).

<sup>14</sup> An order to this effect, signed by the Chairman of IPART and dated 23 November 2016, was published in the NSW Government Gazette: *Government Gazette of the State of New South Wales*, 2 December 2016, number 104, p 3423. Note, prior to the delegation of this function to IPART, Ministers did not customarily exercise their powers under the Act in relation to charges for domestic waste management services.

## 6 Assistance to the Minister for Planning

During 2016-17 we assisted the Minister for Planning by reviewing several contributions plans. We also recommended amendments to the Practice Note, made two external submissions and updated our biannual fact sheet for the recommended discount rate in Net Present Value (NPV) models (in August 2016<sup>15</sup> and February 2017<sup>16</sup>).

### 6.1 Reviews of contributions plans

The terms of reference issued by the Premier require us to provide services to the Minister for Planning in relation to the Environmental Planning and Assessment Act (EP&A Act), including reviews of councils' contributions plans. IPART's role in reviewing contributions plans is set out in a Practice Note issued by the Department of Planning and Infrastructure (DP&I) in February 2014 (now Department of Planning and Environment (DP&E)).<sup>17</sup>

The Practice Note states that IPART is to review councils' section 94 development contributions plans for the Minister for Planning and the relevant council in the following circumstances:

- ▼ new contributions plans proposing a contribution level above the relevant cap
- ▼ existing contributions plans with contributions above the relevant cap for councils seeking State Government funding<sup>18</sup> or a special rate variation, and
- ▼ contributions plans referred by the Minister for Planning.<sup>19</sup>

The main purpose of IPART's review is to assess whether the public amenities and services in the contributions plans comply with the NSW Government's essential works list, and whether the costs of the items in the plans are reasonable and apportioned fairly.<sup>20</sup> IPART provides the assessments to the Minister and the relevant local council and publishes them on our website. During an assessment of a plan, IPART consults with DP&E and the relevant council.

<sup>15</sup> IPART, *Fact Sheet – Latest discount rate for use in local development contributions plans*, August 2016

<sup>16</sup> IPART, *Fact Sheet – Latest discount rate for use in local development contributions plans*, February 2017

<sup>17</sup> Department of Planning and Environment (DP&E), *Revised Local Development Contributions Practice Note - For the assessment of Local Contributions Plans by IPART*, February 2014 (Practice Note).

<sup>18</sup> The Local Infrastructure Growth Scheme (LIGS) allows councils to recover the difference between the contributions rate contained in an adopted contributions plan (that has been the subject of a review by IPART) and the relevant cap on development contributions: see Department of Planning and Environment, *Local Infrastructure Growth Scheme Funding Guidelines*, October 2013.

<sup>19</sup> Revised Practice Note, p 4.

<sup>20</sup> Revised Practice Note, pp 3-4.

During 2016-17 IPART undertook work in reviewing five contributions plans:

▼ *Blacktown City Council's Draft Contributions Plan No 20 – Riverstone & Alex Avenue (CP20)*

Blacktown City Council submitted a revised draft of CP20 for assessment in December 2015. This is the third time we have reviewed a version of CP20. Our review was required because the cost estimates in the plan have increased, particularly in relation to land costs. We reported to the Minister and the council on this plan in July 2016, recommending up to \$156 million or a 15% reduction in the revised cost of this plan, subject to further review<sup>21</sup>.

▼ *Wollongong City Council's Draft West Dapto Contributions Plan*

We reviewed the Draft West Dapto Contributions Plan applying to the West Dapto Urban Release Area, which Wollongong City Council submitted in March 2016. We reported to the Minister and the council on this plan in October 2016, recommending up to \$292 million or 24% cost reductions.

▼ *Bayside Council's Rockdale Contributions Plan 2016 - Urban Renewal Area*

We reviewed the Rockdale Contributions Plan 2016 applying to the Rockdale Urban Renewal Area, which was submitted for assessment in July 2016. We reported to the Minister and the council on this plan in December 2016, recommending up to \$67 million or 26% cost reductions.

▼ *Blacktown City Council's Contributions Plan No 21 – Marsden Park (CP21)*

Blacktown City Council submitted an amended draft of CP21 in December 2016. This was the second time we reviewed this plan, which now includes the Marsden Park precinct, as well as the Marsden Park Industrial precinct. Assessment of this plan was finalised in August 2017. We will report the outcome in next year's annual report.

▼ *Camden Council's Camden Growth Areas Contribution Plan*

We commenced reviewing Camden Council's *Camden Growth Areas Contribution Plan* which the council submitted on 22 June 2017.

## 6.2 Policy framework

On 1 June 2017 the Government announced changes to the local contributions framework<sup>22</sup> and released an Amendment Ministerial Direction in July 2017.<sup>23</sup> These changes phase out the cap on development contributions but provide for IPART to continue to assess the costs of essential infrastructure in section 94 contributions plans.

<sup>21</sup> The final impact of our recommendations for this report and all our assessments depends on the outcome of a range of our recommendations for the councils to review essential works costs and apportionment.

<sup>22</sup> NSW Government, *Media Release – The NSW Government has developed a new package of measures designed to improve housing affordability across NSW*, at <https://www.nsw.gov.au/improving-nsw/projects-and-initiatives/first-home-buyers/>, 1 June 2017, accessed 5 October 2017.

<sup>23</sup> Department of Planning and Environment, *Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2017*, July 2017.

---

We have recommended amendments to the Practice Note to DP&E to support its review of the Note following the policy changes, and anticipate receiving amended terms of reference for our assessment function.

IPART made submissions on the draft Voluntary Planning Agreement Policy and the Draft EP&A Bill 2017, two external reviews about NSW planning policy.

We also updated our biannual fact sheet on the recommended discount rate in Net Present Value (NPV) models in August 2016 and February 2017, which we published on our website.

## 7 Assistance to the Minister for Local Government

IPART conducted a review of the local government rating system in NSW during 2016-17, in accordance with terms of reference issued by the Premier under section 9 of the IPART Act related to IPART's local government functions.

### 7.1 Section 9 Review of the local government rating system

In December 2015, the Premier issued terms of reference under section 9 of the IPART Act requesting IPART to undertake a review of the local government rating system.<sup>24</sup>

Under the terms of reference, IPART was required to identify and make recommendations for potential reforms to the rating system for local government in NSW that:

- ▼ enhance the ability of councils to implement sustainable and equitable fiscal policy, and
- ▼ provide the legislative or regulatory approach to achieve the Government's policy of freezing existing rate paths for four years for newly merged councils.

During 2016-17:

- ▼ We released our Interim Report on 1 August 2016, making recommendations to achieve the Government's rate path freeze policy.
- ▼ We released a Draft Report on 22 August 2016. The report made 34 draft recommendations that included giving councils the option to use Capital Improved Value (CIV) to set rates.<sup>25</sup>
- ▼ We reviewed 175 submissions in response to our Draft Report.
- ▼ We held public hearings in Sydney and Dubbo which attracted 116 participants, including 60 webcast participants.
- ▼ We delivered a Final Report to the Government in December 2016 making recommendations to improve the efficiency and equity of the rating system, and ensure councils are able to implement sustainable fiscal policies over the long term.

---

<sup>24</sup> The terms of reference, received on 22 December 2015, are in Appendix B.

<sup>25</sup> NSW councils are currently required to set the variable component of rates based on a property's unimproved land value: the value of the land without any capital on it. CIV includes both the value of the land and capital.

## 8 IPART's structure for undertaking local government functions

### Tribunal

During 2016-17 members of the Tribunal, appointed by the Premier, performed IPART's delegated rate-setting functions under the Act, and undertook reviews relating to the Government's local government reform agenda. Membership of the Tribunal during 2016-17 was:

- ▼ Dr Peter J. Boxall AO, Chairman
- ▼ Ms Catherine Jones, Tribunal Member (until 2 February 2017)
- ▼ Mr Ed Willett, Tribunal Member, and
- ▼ Ms Deborah Cope, Tribunal Member (from 3 February 2017).

### Committee of the Tribunal

As in previous years, a Committee of the Tribunal exercised IPART's functions of reviewing local government contributions plans under delegation from the Tribunal.<sup>26</sup> During 2016-17 the membership comprised:

- ▼ Ms Catherine Jones, Presiding Member (until 2 February 2017)
- ▼ Ms Deborah Cope, Presiding Member (from 3 February 2017)
- ▼ Mr Matthew Edgerton, Executive Director, Water Pricing, IPART, and
- ▼ Mr Stuart McDonald, independent adviser on planning matters.

---

<sup>26</sup> Section 10 of the IPART Act allows the Tribunal to delegate its functions to a Committee comprising a Tribunal Member and other persons.



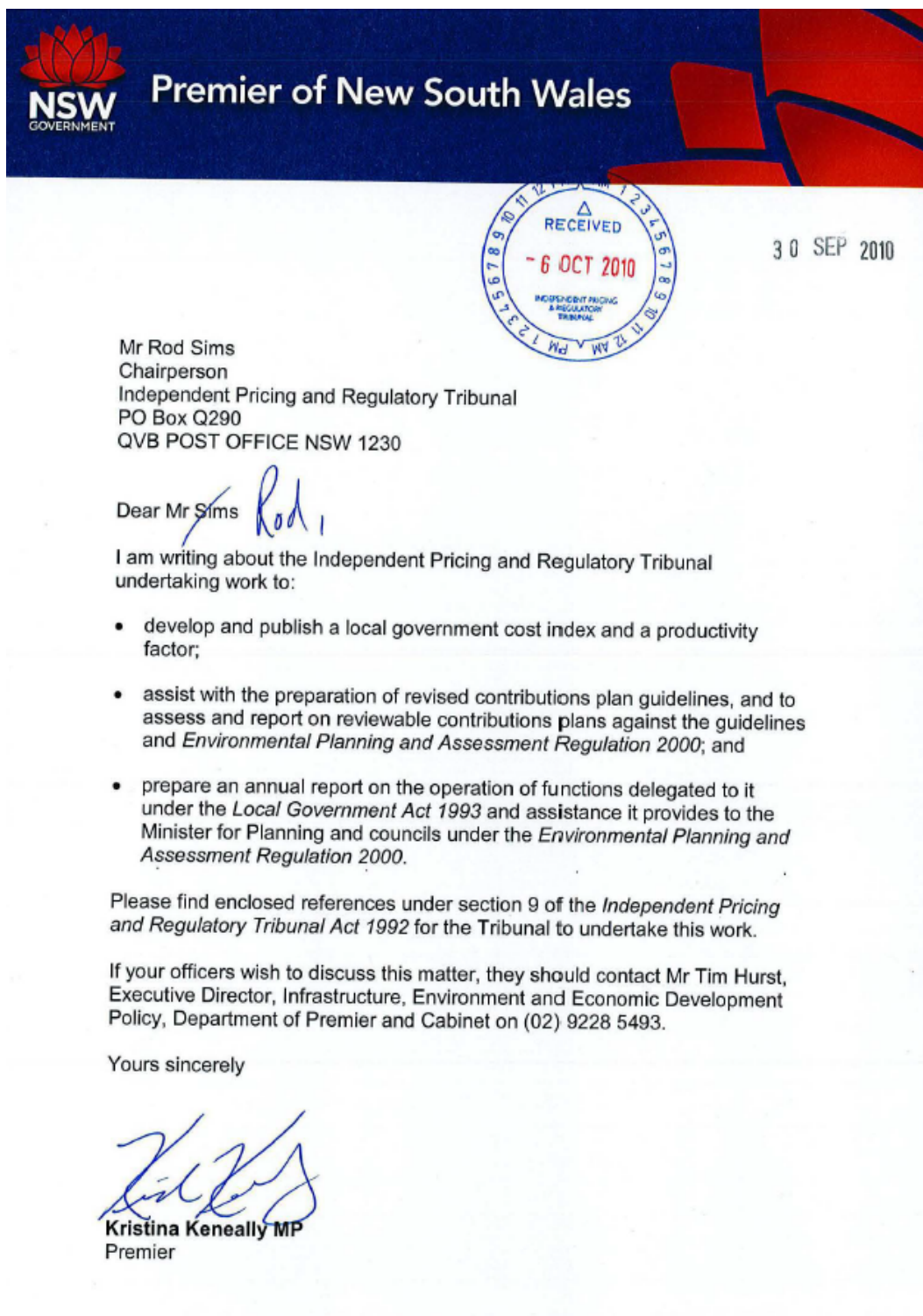


## Appendices





## A Terms of reference delegating functions to IPART



## TERMS OF REFERENCE

I, Kristina Keneally, Premier of New South Wales approve the provision of services by the Independent Pricing and Regulatory Tribunal (IPART) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992 (IPART Act)* to the Minister for Local Government (**Minister**) for the development of a local government cost index in accordance with the following terms of reference.

### Background

Since 4 June 2010, the NSW Government has announced changes to local council charges on new housing development. The changes will lower the cost of new housing construction and provide certainty, transparency and fairness to councils, landowners, developers and the community.

At the same time the Government announced that in future the amount by which councils could increase their rating income will be determined by IPART having regard to the movements of the Local Government Cost Index and Productivity Factor. These functions are to be delegated to IPART by the Minister for Local Government.

### Terms

In providing the services, IPART must:

- (a) develop a local government cost index (**Local Government Cost Index**);
- (b) develop a productivity factor (**Productivity Factor**); and
- (c) publish the Local Government Cost Index and the Productivity Factor on IPART's website.

In developing the Local Government Cost Index and the Productivity Factor, IPART is to have (where relevant) regard to the following matters (in addition to any other matters IPART considers relevant):

- (a) the change in prices of goods and services composing the typical expenditure of Councils to reflect the annual change in underlying costs of ordinary council operations;
- (b) the findings and recommendations of IPART's final report on the local government review titled "Revenue Framework for Local Government";
- (c) the identification of appropriate price indices that would reflect the movement in component costs over time;
- (d) the estimation of the relevant weights to apply to the components of the index; and

- (e) the scope for productivity improvements across the community and in comparable sectors of the economy and the achievable productivity improvements by Councils.

### **Definitions**

Council has the meaning given to that term under the EP&A Act.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

### **Interpretation**

- (a) A reference to a law or statute includes regulations, rules, codes and other instruments under it and consolidations, amendments, re-enactments or replacement of them.
- (b) A reference to an officer includes a reference to the officer who replaces him or her, or who substantially succeeds to his or her powers or functions.
- (c) A reference to a body, whether statutory or not:
  - a. which ceases to exist; or
  - b. whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.
- (d) Words importing the singular include the plural and vice versa.

## TERMS OF REFERENCE

I, Kristina Keneally, Premier of New South Wales approve the provision of services by the Independent Pricing and Regulatory Tribunal (IPART) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992 (IPART Act)* to the Minister for Planning and the Councils for the review of Reviewable Contributions Plans in accordance with the following terms of reference.

### Background

Since 4 June 2010, the NSW Government has announced changes to local council charges on new housing development including:

- (1) imposing a cap of \$20,000 per lot for council imposed charges on new development on land in established areas and a cap of \$30,000 per lot for council imposed charges on new development on land determined by the Minister for Planning as being within Greenfield areas; and
- (2) requiring IPART to review certain council Contributions Plans.

The changes will lower the cost of new housing construction and provide certainty, transparency and fairness to councils, landowners, developers and the community.

The Department of Planning, in conjunction with the Division of Local Government and IPART (overseen by the Land and Housing Supply Coordination Taskforce) are to develop guidelines for preparing Contributions Plans. Councils with contributions within their Contributions Plans that exceed the relevant cap will be required to submit them to IPART for review unless otherwise exempt by the Minister for Planning. Further, when Councils conduct a review of their Contributions Plans, they will be required to submit them to IPART for review prior to finalising those plans if the contributions within those plans exceed the relevant cap. The Minister may also refer to IPART for review any Contributions Plan that is below the relevant cap, where changes are proposed to that plan that the Minister considers merit having an independent assessment. Once IPART receives those plans, IPART is to assess them against the Guidelines and the Regulation and report to the Minister for Planning and Councils on the compliance of those plans.

### Terms

In providing the services, IPART must:

- (a) assist with the preparation of revised contributions plan guidelines;
- (b) conduct an assessment of the Reviewable Contributions Plan against the Guidelines and the Regulation. As part of that assessment, IPART should consider whether:
  - (i) the infrastructure listed in the plan is essential infrastructure
  - (ii) the costs in the plan are reasonable
  - (iii) the Contributions Plan complies with the Guidelines and the Regulation;

- (c) provide a report to the Minister for Planning and the relevant Council on IPART's assessment of the Contributions Plan under paragraph (a); and
- (d) publish a copy of the report in paragraph (b) on IPART's website.

In conducting the assessment under paragraph (a), IPART is to:

- (a) consult with the Department of Planning (NSW);
- (b) consult with the relevant Council and any other person IPART considers necessary; and
- (c) consider any criteria set out in the Guidelines (in addition to any other matters IPART considers relevant).

### Definitions

Cap means:

- (a) the \$20,000 cap per residential dwelling or per residential lot on land in established areas; or
- (b) the \$30,000 cap per residential dwelling or per residential lot on land determined by the Minister for Planning as being within Greenfield areas.

Contributions Plan means a contributions plan prepared and approved by the relevant Council under Part 4, Division 6 of the EP&A Act.

Council has the meaning given to that term under the EP&A Act.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

Guidelines means the current guidelines or practice notes (as the case may be) issued by the Department of Planning on Contributions Plans under Part 4, Division 6 of the EP&A Act.

Regulation means the *Environmental Planning and Assessment Regulation 2000* relating to the Contributions Plan.

Reviewable Contributions Plan means either:

- (a) a Contributions Plan which has a contribution that exceeds the relevant Cap, other than a Contributions Plan for which a Council, as at 31 August 2010, has received (in aggregate) development applications for at least 25 per cent of potential development within that existing Contributions Plan; or
- (b) a Contributions Plan which the Minister for Planning determines from time to time should be subject to review by IPART.

## Interpretation

- (a) A reference to a law or statute includes regulations, rules, codes and other instruments under it and consolidations, amendments, re-enactments or replacement of them.
- (b) A reference to an officer includes a reference to the officer who replaces him or her, or who substantially succeeds to his or her powers or functions.
- (c) A reference to a body, whether statutory or not:
  - a. which ceases to exist; or
  - b. whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.
- (d) Words importing the singular include the plural and vice versa.
- (e) Explanatory notes do not form part of the terms of reference, but in the case of uncertainty may be relied on for interpretation purposes.

## TERMS OF REFERENCE

I, Kristina Keneally, Premier of New South Wales approve the provision of services by the Independent Pricing and Regulatory Tribunal (IPART) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* (IPART Act) to the Minister for Planning and the Minister for Local Government for the preparation of an annual report on the operation of IPART's delegated functions under the LG Act and IPART's assistance to the Minister for Planning and the councils in relation to the EP&A Act in accordance with the following terms of reference.

### Background

Since 4 June 2010, the NSW Government has announced changes to local council charges on new housing development. The changes will lower the cost of new housing construction and provide certainty, transparency and fairness to councils, landowners, developers and the community.

### Terms

In providing those services, IPART must:

- (a) prepare an annual report for the previous financial year relating to:
  - (i) IPART's delegated functions under the LG Act including:
    - (A) variation of general income
    - (B) special variation applications including those rejected and approved by IPART
    - (C) minimum amounts
    - (D) domestic waste charges
  - (ii) the development and publication of the local government cost index and the productivity factor
  - (iii) IPART assistance to the Minister for Planning and councils in relation to the EP&A Act under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* including reviews of the contributions plans;
- (b) forward to the Minister for Planning and the Minister for Local Government the report in paragraph (a) by 31 October each year; and
- (c) publish the report in paragraph (a) on IPART's website.

### Definitions

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

LG Act means the *Local Government Act 1993*

---

## Interpretation

- (a) A reference to a law or statute includes regulations, rules, codes and other instruments under it and consolidations, amendments, re-enactments or replacement of them.
- (b) A reference to an officer includes a reference to the officer who replaces him or her, or who substantially succeeds to his or her powers or functions.
- (c) A reference to a body, whether statutory or not:
  - a. which ceases to exist; or
  - b. whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions.
- (d) Words importing the singular include the plural and vice versa.





**THE HON. BARBARA PERRY MP**

Minister for Local Government,  
Minister for Juvenile Justice,  
Minister Assisting the Minister for Planning,  
and Minister Assisting the Minister for Health (Mental Health)

Ref:  
MIN:  
Doc ID: A219064

Mr Rod Sims  
Chairman  
Independent Pricing and Regulatory Tribunal  
PO Box Q290  
QVB POST OFFICE NSW 1230

6 SEP 2010

Dear Mr Sims

I am writing in response to the NSW Government Cabinet Minute 124-10 – Infrastructure Contribution Reforms to Support Land and Housing Release in New South Wales.

As you are aware, Cabinet's decision required me, as Minister for Local Government, to delegate to the Independent Pricing and Regulatory Tribunal responsibility for setting the annual Local Government Rate Peg and for assessing and determining local council's applications for Special Variations to their general income from rates under section 508 and section 508A of the *Local Government Act 1993*.

In order to carry out the necessary determinations I am delegating my authority under the following sections of the Act to the Tribunal:

- Section 506 - the authority to specify the percentage by which councils' general income for a specified year may be varied ie the rate pegging percentage.
- Section 507 - the authority to vary annual charges for domestic waste management services.
- Section 508(2), (3), (6), (7) - the authority to specify a percentage by which individual councils' general income may be varied for a specified year ie special variation with a single annual percentage increase.
- Section 508A - the authority to specify the percentages by which individual councils' general income may be varied for specified years ie special variation for multiple annual percentage increases.
- Section 548(3), (8) - the authority to approve the setting of minimum amounts of rates, above the statutory maximum, for specific councils,

Attached is a copy of my Instrument to effect the above delegation.

Yours sincerely

Barbara Perry MP  
Minister

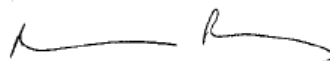
**LOCAL GOVERNMENT ACT 1993**  
**DELEGATION UNDER SECTION 744**

I, **BARBARA MAZZEL PERRY MP**, Minister for Local Government, by this Instrument made under section 744 of the *Local Government Act 1993* ("Act"), hereby delegate to:

- (a) the Independent Pricing and Regulatory Tribunal of New South Wales ("IPART"); and
- (b) such members of IPART and other persons as are nominated for that purpose by IPART, and approved by the Minister, from time to time:
  - (1) all of my functions (as defined in the Act) under sections 506, 507, 508(2), 508(3), 508(6), 508(7), 508A, 548(3) and 548(8) of the Act (together the "Delegated Functions"); and
  - (2) such other powers under the Act and the *Local Government (General) Regulation 2005* which are necessary for IPART to perform the Delegated Functions.

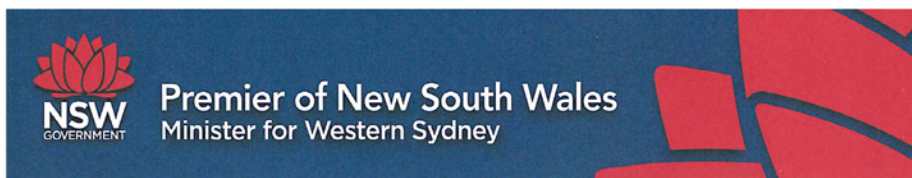
<b>Section 506</b>	<b>Variation of General Income</b>
<b>Section 507</b>	<b>Variation of Annual Charges for Domestic Waste Management Services</b>
<b>Section 508(2), 508(3), 508(6) and 508(7)</b>	<b>Orders under sections 506 and 507</b>
<b>Section 508A</b>	<b>Special Variation over a period of years</b>
<b>Section 548(3) and 548(8)</b>	<b>Minimum Amounts</b>

Dated this 6<sup>th</sup> day of September 20 10.

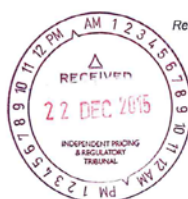


**The Hon Barbara Perry MP**  
**Minister for Local Government**

## B Terms of reference for the review of local government rating system



Dr Peter Boxall AO  
Chairman  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
HAYMARKET POST SHOP NSW 1240



Reference: A1444504

18 DEC 2015

Dear Dr Boxall

Pursuant to section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*, I am writing to request the Tribunal undertake a review of the Local Government rating system in accordance with the attached Terms of Reference.

The implementation of an efficient and equitable rating system is a key component of the Government's *Fit for the Future* reforms, and will ensure all councils are able to implement sustainable fiscal policies and reforms over the longer-term.

Critically, the Tribunal's review should seek to recommend a legislative or regulatory approach to support the Government's policy of freezing existing rate paths for a period of four years for councils that merge as part of the *Fit for the Future* process.

An interim report outlining options and recommendations to achieve this commitment should be provided to the Minister for Local Government within six months. A final report addressing all aspects of the terms of reference should be provided to the Minister within 12 months.

Should you have any questions or wish to discuss this matter further, please contact Mr John Clark, Executive Director, Local Government Reform on 9228 3570 or [john.clark@dpc.nsw.gov.au](mailto:john.clark@dpc.nsw.gov.au)

Yours sincerely

A blue ink signature of Mike Baird MP, written in a cursive style.

**MIKE BAIRD MP**  
Premier

Encl: Terms of Reference, Local Government Rating System in NSW

## Terms of Reference

### The Local Government Rating System in NSW

I, Mike Baird, Premier of New South Wales, approve the provision of services by the Independent Pricing and Regulatory Tribunal (IPART) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* (IPART Act) to the Minister for Local Government for the review of the local government rating system in accordance with these 'terms of reference'.

#### General

IPART is to undertake a review to identify and make recommendations for potential reforms to the rating system for local government in NSW. These recommendations will aim to:

- Enhance the ability of councils to implement sustainable and equitable fiscal policy and
- Provide the legislative and regulatory approach to achieve the Government's policy of freezing existing rate paths for four years for newly merged councils.

In investigating and making recommendations for this review, IPART is to consider:

- a) the performance of the current rating system and potential improvements, including consideration of:
  - the rating burden across and within communities, including consideration of apartments and other multi-unit dwellings;
  - the appropriateness and impact of current rating categories and exemptions, mandatory concessions and rebates;
  - the land valuation methodology used as the basis for determining rates in comparison to other jurisdictions;
  - the impact of the current rating system on residents and businesses of a merged council and the capacity of the council to establish a new equitable system of rating and transition to it in a fair and timely manner.
  - the objectives and design of the rating system according to recognised principles of taxation.
- b) current examples of municipal best practice rating policies and schemes;
- c) the impact of the current and alternative frameworks for the rating system on communities and businesses and their capacity to pay; and
- d) any other matter IPART considers relevant.

In undertaking its review under these Terms of Reference, IPART is to take account of:

- the importance of Integrated Planning and Reporting in determining the revenue required to deliver services and infrastructure;
- the current financial sustainability of local government in NSW, including the findings and deliberations of the NSW Treasury Corporation report Financial Sustainability of the NSW Local Government Sector, 2013;
- the findings and deliberations of the Independent Local Government Review Panel and subsequent Government response;
- the NSW Government's policy of encouraging urban renewal; and
- the NSW Government's commitment to protect NSW residents against excessive rate increases and to providing rate concessions to pensioners.

#### Public consultation

IPART should consult with relevant stakeholders and NSW Government agencies by releasing an Issues Paper and Draft Report for their review on the IPART website. IPART should also consult with the Fit for the Future Ministerial Advisory Group.

IPART may also hold public hearings for the purposes of this review.

#### Timeframe

An interim report with recommendations on the legislative and regulatory approach to achieve the Government's policy of freezing existing rate paths for four years for newly merged councils should be submitted to the Minister for Local Government within 6 months of signing of the Terms of Reference.

A final review report should be formally submitted to the Minister for Local Government within 12 months of signing of the Terms of Reference.

#### Governance

IPART should provide progress briefings at regular intervals or as requested to the Chief Executive, Office of Local Government.

The Minister for Local Government will decide on the timing of release of the final report.

#### Supporting information and recommendations

IPART is to collect relevant material and data to establish the impacts to councils, communities and NSW of the current rating system, and to provide reasons for any recommendations for reform.

## C Reports and papers released during 2016-17

Table C.1 sets out the local government papers and reports published by IPART during 2016-17.

**Table C.1 Reports and papers publicly released by IPART during 2016-17 related to our local government functions**

<b>Date</b>	<b>Paper or Report</b>
25 July 2016	Assessment of Blacktown City Council's Section 94 Contributions Plan No 20 – Riverstone and Alex Avenue Precinct
1 August 2016	Review of Local Government Rating System – Interim Report – Freezing existing rate paths for newly merged councils
22 August 2016	Review of Local Government Rating System – Draft Report
11 October 2016	Final Report – Assessment of Wollongong City Council's Draft West Dapto Section 94 Development Contributions Plan
20 December 2016	Assessment of Rockdale Urban Renewal Area Contributions Plan

## D Components of the Local Government Cost Index

**Table D.1 The rise in the LGCI for the year ended September 2016**

Cost Items	Effective weight as at end Sep 2015 (%)	Price change to end Sep 2016 (% annual average)	Contribution to index change (percentage points)
<b>Operating cost items</b>			
Employee benefits and on-costs	41.3	2.3	0.94
Plant & equipment leasing	0.3	-2.7	-0.01
Operating contracts	1.0	1.7	0.02
Legal & accounting services	0.8	1.3	0.01
Office & building cleaning services	0.3	1.0	0.00
Other business services	5.9	1.9	0.11
Insurance	1.6	6.6	0.10
Telecommunications, telephone & internet services	0.6	-7.1	-0.04
Printing publishing & advertising	0.6	-3.3	-0.02
Motor vehicle parts	0.3	1.2	0.00
Motor vehicle repairs & servicing	0.6	3.0	0.02
Automotive fuel	0.8	-10.5	-0.08
Electricity	2.7	-0.9	0.00
Gas	0.1	-10.4	-0.01
Water & Sewerage	0.4	-0.9	-0.02
Road, footpath, kerbing, bridge & drain building materials	2.5	0.6	0.02
Other building & construction materials	0.5	2.7	0.01
Office supplies	0.2	-0.4	0.00
Emergency services levies	1.4	3.3	0.05
Other expenses <sup>a</sup>	8.9	1.5	0.13
<b>Capital cost items</b>			
Buildings – non-dwelling	3.9	2.7	0.11
Construction works – road, drains, footpaths, kerbing, bridges	19.5	0.6	0.13
Construction works – other	2.0	0.6	0.01
Plant & equipment – machinery, etc	3.5	0.2	0.01
Plant & equipment – furniture, etc	0.1	2.1	0.00
Information technology & software	0.5	-3.7	-0.02
<b>Total change in LGCI</b>	<b>100</b>		<b>1.47</b>

<sup>a</sup> Includes miscellaneous expenses with low weights in the Index, eg councillor and mayoral fees.

**Note:** Figures may not add due to rounding. Percentage changes are calculated from unrounded numbers.

## E Summary of rate variations requested by councils and IPART's decisions

Table E.1 sets out the percentage increases in general income requested by each council, the amount approved by IPART, and the purpose for the requested special variation.

Table E.2 sets out the determinations by IPART to adjust general income for councils where Crown land has become rateable.

### Understanding Table E.1

The types of applications and decisions set out in Table E.1 are explained below. All approved increases in the table are permanent unless noted otherwise.

#### 508(2) special variation for a permanent increase in income

Bellingen Shire Council and Port Macquarie-Hastings Council applied under section 508(2) of the Act for a single year, permanent increase in general income of 6.0% and 5.39%, respectively, both of which IPART approved in full.

#### 508A special variation

Inverell Shire Council and Byron Shire Council applied for a multi-year increase in general income under section 508A, to remain permanently in the rate base. IPART approved the requested increases in full, a 22.21% increase over three years for Inverell and a 33.55% increase over four years for Byron.

#### Special variations to renew existing special variations

Port Macquarie-Hastings Council's application replaces an expiring special variation. As ratepayers are already paying the existing special variation percentage, the net increase in general income will be equal to the rate peg.

#### Partial approval of an application

Ballina Shire Council's and Shoalhaven City Council's applications were only partially approved. They were granted a temporary increase in income for 2017-18 of 4.90% and 13.20%, respectively. The increase in income above the 1.5% rate peg is to be removed from 2018-19 onwards.

#### Non approval of an application

The applications of Lockhart Shire Council and Muswellbrook Shire Council were not approved. These councils did not adequately communicate the full impact of the proposed SVs to their communities. We also determined Lockhart Shire Council did not satisfy the criteria in relation to financial need.



---

## **Mid-Coast Council application approved**

IPART received an application from Mid-Coast Council on 1 June 2017 to increase general income by 28.5% in total over four years from 2017-18, to be retained permanently in the rate base. In July 2017 we approved an increase of 27.3% over four years that can be retained permanently in the rate base.

Table E.1 Summary of special variations IPART has determined for 2017-18 – annual variation and purpose

	Type of SV approved	% increase per year approved (includes rate peg of 1.5% for 2017-18)				Cumulative % rise (above rate peg) <sup>g</sup>	Purpose
		2017-18	2018-19	2019-20	2020-21		
<b>Approved in full</b>							
Bellingen Shire	508(2)	6.00				<b>6.00</b> (4.50)	Fund a sealed roads resurfacing program, reduce the infrastructure backlog and improve financial sustainability.
Byron Shire	508A	7.50	7.50	7.50	7.50	<b>33.55</b> (24.24)	Reduce the infrastructure backlog and improve financial sustainability
Inverell Shire	508A	6.25	7.25	7.25		<b>22.21</b> (15.58)	Maintain and renew infrastructure, reduce the infrastructure backlog and improve financial sustainability.
Port-Macquarie-Hastings	508(2)	5.39 <sup>a</sup>				<b>5.39</b> (3.89)	Maintain and renew the council's road network, as well as reduce the infrastructure backlog.
<b>Approved in-part</b>							
Ballina Shire <sup>b</sup> temporary one year	508(2)	4.90				<b>4.90</b> (3.40)	Fund renewal of core infrastructure assets, Healthy Waterways program and improve financial sustainability.
Shoalhaven City <sup>c</sup> temporary one year	508(2)	13.20				<b>13.20</b> (11.70)	Fund new infrastructure investment, reduce the infrastructure backlog and improve financial sustainability.
Mid-Coast <sup>d</sup> permanent four years	508(2)	10.0	5.0	5.0	5.0	<b>27.34</b> (18.03)	Fund asset renewals expenditure, reduce infrastructure backlog, ongoing environmental programs, and improve financial sustainability.
<b>Not approved</b>							
Lockhart Shire <sup>e</sup>	-	-	-	-	-	-	- Increase own source revenue and partly fund swimming pool refurbishments, flood mitigation measures, and road restoration works.
Muswellbrook Shire <sup>f</sup>	-	-	-	-	-	-	- Finance a water park, town centre upgrade, and convention centre.

<sup>a</sup> This SV replaces an SV granted in 2012-13 that was due to expire on 30 June 2017. As a result, the net increase to general income will be 1.50% in 2017-18, which is equal to the rate peg.

<sup>b</sup> Ballina Shire applied for 4.90% in 2017-18, and 5.90% in 2018-19 and 2019-20 (cumulative 17.64%), retained permanently in the rate base.

<sup>c</sup> Shoalhaven City applied for 13.20% in 2017-18 and 14.00% in 2018-19 (cumulative 29.05%), retained permanently in the rate base.

<sup>d</sup> We received an application from Mid-Coast Council on 1 June 2017, and made our decision on 21 July 2017. Mid-Coast Council applied for 11.0% in 2017-18, and 5.0% in 2018-19 to 2020-21, retained permanently in the rate base.

<sup>e</sup> Lockhart Shire applied for a 4.60% per annum increase for seven years (cumulative 37.00%), retained permanently in the rate base.

<sup>f</sup> Muswellbrook Shire applied for 4.00% in 2017-18, and 5.00% in 2018-19 to 2020-21 (cumulative 20.39%), retained permanently in the rate base.

<sup>g</sup> To calculate the cumulative increase above the rate peg, we assume the rate peg in 2018-19 and thereafter is 2.5%.

**Table E.2 Summary of Crown land adjustments for 2017-18 approved by IPART**

Council	Previous Owner	CLA in application – based on 16-17 rates (\$)	CLA for 17-18 – adjusted for rate peg (\$)	Permitted increase in general income for 17-18		
				Increase for CLA (%)	Increase for rate peg (%)	Combined increase (%)
Broken Hill	<ul style="list-style-type: none"> <li>▼ Soil Conservation Commission NSW (1 parcel, business rating category)</li> <li>▼ Essential Energy (22 parcels, business rating category)</li> </ul>	92,076	93,457	0.64	1.50	2.14
City of Sydney	<ul style="list-style-type: none"> <li>▼ Sydney Harbour Foreshore Authority (3 parcels, business CBD rating category)</li> </ul>	2,903,803	2,947,360	1.08	1.50	2.58
Kiama	<ul style="list-style-type: none"> <li>▼ Sydney Water Corporation (35 parcels, business commercial/industrial category)</li> </ul>	37,553	38,116	0.25	1.50	1.75
Port Stephens	<ul style="list-style-type: none"> <li>▼ Landcom (5 parcels, residential rating category)</li> <li>▼ Defence Housing Australia (7 parcels, residential rating category)</li> </ul>	12,846	13,039	0.03	1.50	1.53