



Independent Pricing and Regulatory Tribunal
New South Wales

Report on IPART's functions in relation to local government in 2017-18

Report to Ministers

Annual Report
Local Government

October 2018



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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 2017-18 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 local infrastructure 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.

A list of all the reports and papers related to the local government functions that we have published during 2017-18 is in Appendix B.

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 income¹ for a specified year may be varied. The percentage change is known as the rate peg.

IPART announced a rate peg of 2.3% for 2018-19 on 28 November 2017.²

The calculation of the 2018-19 rate peg was based on:

- ▼ an increase in the LGCI of 2.3%, and
- ▼ a productivity factor of 0.0% (see Section 2.2).

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

² IPART, *Media Release – 2018-19 rate peg for NSW local councils*, 28 November 2017. An order to this effect, signed by the Chair of IPART and dated 28 November 2017, was published in the NSW Government Gazette: *Government Gazette of the State of New South Wales*, 1 December 2017, number 129, p 7467.

This calculation resulted in a rate peg of 2.3%. We published a Fact Sheet on this decision on our website.³

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.⁴ 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. Our 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 2018-19.

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.⁵ The components of the LGCI, their weights, the percentage change in prices for the year to September 2017, and their overall contribution to the LGCI are set out in Appendix C.

2.2 The productivity factor

The productivity factor allows ratepayers to share in the efficiency gains made by councils. This year we changed the way we estimate the productivity factor. We have set the productivity factor at zero because improvements in productivity are reflected in the components of the LGCI. In future years, we intend to set the productivity factor at zero as a default, but retain discretion to deduct a productivity factor, if there is evidence of productivity improvements in the local government sector that have not been fully incorporated in the LGCI.

2.3 Timing of the rate peg release

We announced this year that we intend to bring forward the release of the rate peg to the beginning of September in future years. This change will provide councils with more time to prepare annual budgets and engage with their communities on potential special rate variation applications for the following year.

³ IPART, *Fact Sheet – Rate peg for NSW councils for 2018-19*, 28 November 2017.

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

⁵ For the 'emergency services levies' component we construct our own price index.

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:

- ▼ 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).⁶

3.1 Determination of the applications

In February 2018, IPART received applications from 13 councils for a special variation to apply from 1 July 2018.

We assessed the special variation applications against criteria in guidelines set by the Office of Local Government (OLG), which were published in November 2017.⁷ 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 seven of the eleven multi-year SV applications under section 508A in full. Two applications were only partially approved as the councils had not adequately updated and exhibited their Integrated Planning and Reporting (IP&R) documents. A further two applications were not approved. Upper Hunter Shire Council did not adequately update its IP&R documents or communicate the full impact of the proposed SV to the community. Willoughby Council did not adequately update its IP&R documents or demonstrate a need for the additional revenue from the proposed SV.

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

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

⁶ 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.

⁷ Office of Local Government, *Guidelines for the preparation of an application for a special variation to general income for 2018/19*, November 2017.

Box 3.1 Assessment criteria for special variation applications for 2018-19

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.^a
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.

^a 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 2018/19*, November 2017.

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.⁸

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 2018-19 the statutory limit for the minimum amount of an ordinary rate should increase from \$514 to \$526 in line with the 2.3% rate peg increase. This approach is consistent with previous years. Clause 126 of the *Local Government (General) Regulation 2005* was amended, effective 1 July 2018.⁹

The statutory limit for the minimum amount of a special rate is \$2, but there is no power in the Act to amend it.¹⁰

Councils seeking to increase the minimum amount of a rate above the statutory limit must apply to IPART for approval. For 2018-19, we received three applications from councils to set the minimum amount of a rate above the statutory limit. Two of these applications were approved in full. The other application was not approved as the council did not satisfy the requirement to communicate dollar and percentage increases in minimum rates in its community consultation materials. The outcomes of IPART's minimum rate assessments are shown in Table D.3 in Appendix D.

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).¹¹

Councils must set domestic waste management charges that do not exceed the reasonable cost of providing the services.¹² 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 2018-19, consistent with our decisions in previous

⁸ *Local Government Act 1993*, ss 548(3) and 548(8).

⁹ *Local Government (General) Regulation 2005*, cl 126, notified on the NSW legislation website on 2 February 2018.

¹⁰ Unless prior Ministerial approval for a higher amount has been given as per Section 548(3)(b) of the *Local Government Act 1993*.

¹¹ Under sections 507 and 508(7) of the *Local Government Act 1993*.

¹² *Local Government Act 1993*, section 504(3).

years.¹³ Councils will continue to set these charges to reflect the reasonable cost of providing such services, subject to audit and monitoring by OLG.

6 Assistance to the Minister for Planning

During 2017-18, we assisted the Minister for Planning by reviewing several local infrastructure contributions plans (contributions plans), engaged with the Department of Planning and Environment (DPE) on the policy framework for contributions plans, updated our biannual fact sheet for the recommended discount rate in Net Present Value (NPV) models (in August 2016 and February 2017) and commenced a review of our guidance to councils on modelling local infrastructure contributions.

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 1979* (EP&A Act), including reviews of councils' contributions plans. IPART is required to assess councils' section 7.11 contributions plans in accordance with a Direction by the Minister for Planning issued under section 7.17 of the EP&A Act,¹⁴ and the criteria for assessment set out in a Practice Note issued by DPE, most recently in January 2018.¹⁵

IPART assesses contributions plans that propose contributions above \$30,000 per lot or dwelling in identified areas and \$20,000 per dwelling in other areas. An IPART-reviewed contributions plan:

- ▼ for specified transition areas, entitles the council to levy up to a capped amount (currently \$35,000 in greenfield areas and \$25,000 elsewhere) and apply for Local Infrastructure Growth Scheme (LIGS) funding for the amount of any contribution which is above the cap;
- ▼ for other areas, entitles the council to levy the full contribution amount.

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.¹⁶ IPART provides the assessments to the Minister and the relevant local council and publishes them on our website.

¹³ An order to this effect, signed by the Chair of IPART and dated 28 November 2017, was published in the NSW Government Gazette: *Government Gazette of the State of New South Wales*, 1 December 2017, number 129, p 7467. 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.

¹⁴ Minister for Planning, Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012, 21 August 2012, as amended. The Direction was amended most recently in February 2018.

¹⁵ Department of Planning and Environment (DPE), *Local Infrastructure Contributions Practice Note*, January 2018 (Practice Note).

¹⁶ Practice Note, pp 14-16.

During 2017-18, IPART undertook work in reviewing five contributions plans. We finalised our assessment of two plans and commenced assessing three plans:

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

Blacktown City Council submitted a revised version of CP21 for review in December 2016. This was the second time we assessed CP21. The previous version we assessed applied only to the Marsden Park Industrial Precinct. The revised version also applied to the Marsden Park Residential Precinct. We reported to the Minister and the council on this plan in August 2017, recommending reductions in the \$980.8 million cost of the plan of at least \$144 million (14.7%) and potentially around \$52 million more, dependent on a range of further investigations recommended to the council.¹⁷

▼ *Camden Council's Camden Growth Areas Contributions Plan 2017*

We reviewed Camden Council's *Camden Growth Areas Contributions Plan 2017*, which currently applies to two precincts, Leppington North and Leppington. The council submitted the plan in June 2017. Our assessment was formally on hold for a period of three months to allow the council to provide additional information. We reported to the Minister and the council on this plan in May 2018, recommending that before it applies for funding from the NSW Government under LIGS, the council should reduce the costs in the plan by \$55.5 million (8.3%).

▼ *Blacktown City Council's Contributions Plan No 22 – Rouse Hill (CP22)*

We commenced our assessment of Blacktown City Council's CP22 in May 2018. CP22 comprises two plans: CP22L – Rouse Hill (Land), which covers local infrastructure land costs, and CP22W – Rouse Hill (Works), which covers local infrastructure works and administration costs. This is the second time IPART has reviewed CP22, but the land to which the plan applies now includes Riverstone East as well as the original Area 20. Both precincts are in Sydney's North West Growth Area. We expect to report on our final assessment in the annual report for the year 2018-19.

▼ *The Hills Shire Council's Contributions Plan 15 for Box Hill (CP15 2017)*

We commenced our assessment of CP15 in May 2018, which applies to the Box Hill and Box Hill Precincts in Sydney's North West Growth Area, which the council has submitted for review for the third time. The council revised CP15 in light of the Minister's requests following recommendations in IPART's previous assessment, and made other amendments. The Minister for Planning asked IPART to undertake a targeted review of CP15 2017, focusing on the amendments the council made following our most recent assessment. We expect to report on our final assessment in the annual report for the year 2018-19.

▼ *Campbelltown City Council's Menangle Park Contributions Plan 2018*

We commenced our assessment of Campbelltown City Council's *Menangle Park Contributions Plan 2017* in June 2018. The plan applies to the Menangle Park Urban Release Area in the south-west of the Sydney metropolitan region. We expect to report on our final assessment in the annual report for the year 2018-19.

¹⁷ The final impact of our recommendations for this report and all our assessments depends on the Minister's request to the council to amend the plan following consideration of our recommendations.

6.2 Policy framework

On 1 June 2017 the Government announced changes to the local contributions framework¹⁸ and released an Amendment Ministerial Direction in July 2017.¹⁹ These changes phase out the cap on local infrastructure contributions but provide for IPART to continue to assess contributions plans that propose residential contribution amounts above a threshold amount.

Following the policy changes, DPE consulted IPART on a revised Practice Note, which it issued in January 2018. The criteria in the Practice Note used by IPART to evaluate contributions plans remain unchanged. There has been no amendment to the terms of reference for our assessment function to date.

6.3 Assessment process

In response to the changes to the policy framework we introduced some changes to our assessment processes. These were intended to increase transparency about how we conduct reviews and improve opportunities for engagement of those with an interest in our assessments, particularly the development industry.

In April 2018 we published two information papers explaining how IPART assesses contributions plans: *Contributions plan assessment process* and *Contributions plan assessment process for land costs*.²⁰

We are trialling a formal public consultation period as part of our assessment process, accepting submissions from the public on a council's contribution plan for a period of up to four weeks after the council's contributions plan has been submitted to IPART and uploaded to our website.

We also updated our biannual fact sheet on the recommended discount rate for councils to use in Net Present Value (NPV) models in August 2017 and February 2018,²¹ which we published on our website. In addition, we commenced a review of our Technical Paper that provides guidance to councils using an NPV approach to modelling local infrastructure contributions.²²

¹⁸ 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.

¹⁹ Department of Planning and Environment, *Environmental Planning and Assessment (Local Infrastructure Contributions) Amendment Direction 2017*, July 2017.

²⁰ IPART, *Information Paper – Contributions plan assessment*, April 2018, and IPART, *Information Paper – Contributions plan assessment process for land costs*, April 2018.

²¹ IPART, *Fact Sheet – Latest discount rate for use in local development contributions plans*, August 2017; IPART, *Fact Sheet – Latest discount rate for use in local development contributions plans*, February 2018.

²² IPART, *Modelling local development contributions in a present value framework*, Technical Paper, February 2016.

7 IPART's structure for undertaking local government functions

Tribunal

During 2017-18 members of the Tribunal, appointed by the Premier, performed IPART's delegated rate-setting functions under the Act. Membership of the Tribunal during 2017-18 was:

- ▼ Dr Peter J. Boxall AO, Chair
- ▼ Mr Ed Willett, Tribunal Member, and
- ▼ Ms Deborah Cope, Tribunal Member.

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.²³ During 2017-18 the membership comprised:

- ▼ Ms Deborah Cope, Presiding Member
- ▼ Mr Matthew Edgerton, Executive Director, Water Pricing, IPART, and
- ▼ Mr Stuart McDonald, independent adviser on planning matters (until 6 April 2018).

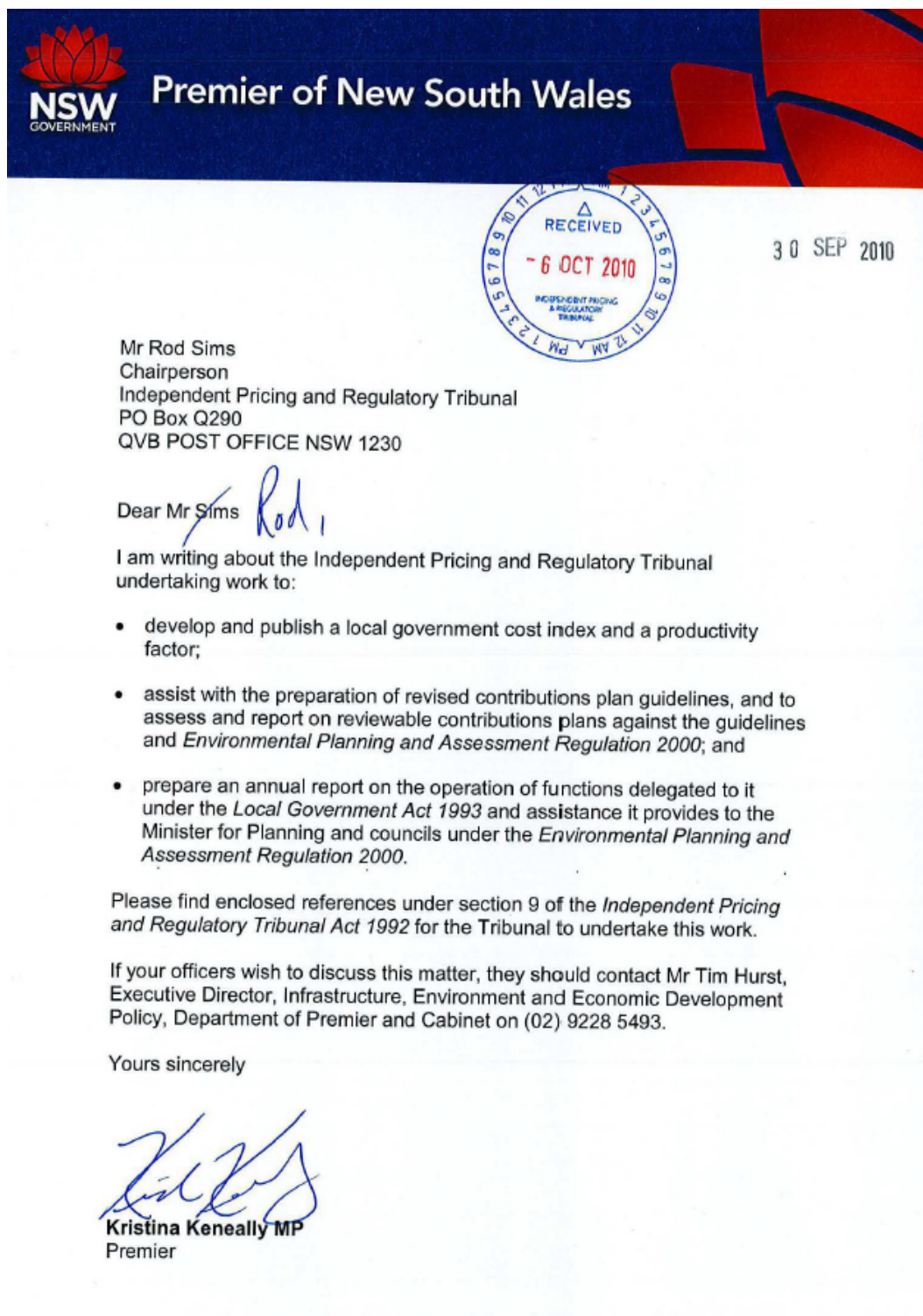
²³ Section 10 of the IPART Act allows the Tribunal to delegate its functions to a Committee comprising a Tribunal Member and other persons.



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

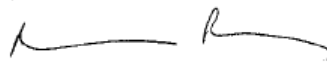
LOCAL GOVERNMENT ACT 1993
DELEGATION UNDER SECTION 744

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.

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

Dated this 6th day of September 20 10.



The Hon Barbara Perry MP
Minister for Local Government

B Reports and papers released during 2017-18

Table B.1 sets out the local government papers and reports published by IPART during 2017-18.

Table B.1 Reports and papers publicly released by IPART during 2017-18 related to our local government functions

Date	Paper or Report
31 August 2017	<i>Assessment of Blacktown City Council's revised Section 94 Contributions Plan No 21 – Marsden Park – August 2017</i>
5 April 2018	<i>Information Paper – Contributions plan assessment – April 2018</i>
5 April 2018	<i>Information Paper – Contributions plan assessment process for land costs – April 2018</i>
14 May 2018	<i>Assessment of Camden Council's Growth Areas Contributions Plan (CGA-CP) – May 2018</i>

C Components of the Local Government Cost Index

Table C.1 The rise in the LGCI for the year ended September 2017

Cost Items	Effective weight as at end Sep 2016 (%)	Price change to end Sep 2017 (% annual average)	Contribution to index change (percentage points)
Operating cost items			
Employee benefits and on-costs	41.6	2.5	1.03
Plant & equipment leasing	0.3	-1.9	-0.01
Operating contracts	1.0	1.5	0.02
Legal & accounting services	0.8	1.7	0.01
Office & building cleaning services	0.3	3.0	0.01
Other business services	5.9	2.6	0.16
Insurance	1.7	4.1	0.07
Telecommunications, telephone & internet services	0.5	-4.8	-0.02
Printing publishing & advertising	0.5	-4.7	-0.03
Motor vehicle parts	0.3	2.9	0.01
Motor vehicle repairs & servicing	0.6	0.5	0.00
Automotive fuel	0.7	5.6	0.04
Electricity	2.6	11.7	0.30
Gas	0.1	3.0	0.00
Water & Sewerage	0.4	-5.2	-0.02
Road, footpath, kerbing, bridge & drain building materials	2.4	1.2	0.03
Other building & construction materials	0.5	4.7	0.02
Office supplies	0.2	1.1	0.00
Emergency services levies	1.4	1.3	0.02
Other expenses ^a	8.9	2.1	0.18
Capital cost items			
Buildings – non-dwelling	4.0	4.7	0.19
Construction works – road, drains, footpaths, kerbing, bridges	19.3	1.2	0.23
Construction works – other	2.0	1.2	0.02
Plant & equipment – machinery, etc	3.5	0.6	0.02
Plant & equipment – furniture, etc	0.1	1.2	0.00
Information technology & software	0.4	-3.1	-0.01
Total change in LGCI	100		2.29

^a 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.

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

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

Table D.3 sets out the decisions made by IPART in 2018-19 on minimum rate applications.

Understanding Table D.1

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

508(2) special variation

Kempsey Shire Council and Lismore City Council applied under section 508(2) of the Act for a single year temporary increase in general income of 6.50% and 2.71%, respectively, both of which IPART approved in full.

508A special variation

Seven councils 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 15.54% increase over two years for Ballina Shire,
- a 94.87% increase over seven years for Balranald Shire,
- a 19.10% increase over three years for Bellingen Shire,
- a 25.97% increase over three years for Clarence Valley,
- a 31.29% increase over three years for Hawkesbury City,
- a 19.85% increase over three years for Randwick City, and
- a 29.10% increase over three years for Shoalhaven City.

Special variations to renew existing special variations

Kempsey Shire Council's and Lismore City Council's applications replace expiring special variations. As ratepayers are already paying the existing special variation percentage, the net increase in general income will be equal to the rate peg for these councils.

Partial approval of an application

Kiama Municipal Council's and Muswellbrook Shire Council's applications were only partially approved because they did not adequately update and exhibit their IP&R documents. They were granted a temporary increase in income for 2018-19 of 6.00% and



14.73%, respectively. The increase in income above the 2.3% rate peg is to be removed from 2019-20 onwards.

Non approval of an application

The applications of Upper Hunter Shire Council and Willoughby City Council were not approved. These councils did not adequately update their IP&R documents. Additionally, Upper Hunter did not adequately communicate the full impact of the proposed SV to the community, while Willoughby did not demonstrate a need for the additional revenue.

Table D.1 Summary of special variations IPART has determined for 2018-19 – annual variation and purpose

Council	Type of SV approved	% increase per year approved (includes rate peg increase of 2.3% in 2018-19)							Cumulative % rise (% rise above assumed rate peg in future years)	SV purpose
		2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25		
Approved in full										
Ballina Shire	508A	9.10	5.90						15.54 (10.68)	Fund infrastructure asset renewal, Healthy Waterways program and improve financial sustainability.
Balranald Shire	508A	10.00	10.00	10.00	10.00	10.00	10.00	10.00	94.87 (76.24)	Fund asset maintenance and renewal, reduce the infrastructure backlog and improve financial sustainability.
Bellingen Shire	508A	6.00	6.00	6.00					19.10 (11.62)	Fund asset renewals, reduce the infrastructure backlog and improve financial sustainability.
Clarence Valley	508A	8.00	8.00	8.00					25.97 (18.49)	Improve financial sustainability and fund asset renewals and maintenance.
Hawkesbury City	508A	9.50	9.50	9.50					31.29 (23.81)	Fund asset maintenance and renewals and improve financial sustainability.
Kempsey Shire ^a	508(2)	6.50							6.50 (4.20)	Renew an expiring environmental levy.
Lismore City ^b	508(2)	2.71							2.71 (0.41)	Renew an expiring business levy to continue funding the Lismore Business Promotion Program
Randwick City	508A	7.64	5.52	5.52					19.85 (12.37)	Fund new community facilities and projects, maintain service levels and provide anti-terrorism infrastructure.

Council	Type of SV approved	% increase per year approved (includes rate peg increase of 2.3% in 2018-19)							Cumulative % rise (% rise above assumed rate peg in future years)	SV purpose
		2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25		
Shoalhaven City ^c	508A	17.10	5.00	5.00					29.10 (21.62)	Improve financial sustainability, reduce the infrastructure backlog and fund asset renewal and maintenance.
Approved in-part										
Kiama Municipal ^d 1-year temporary	508(2)	6.00							6.00 (3.70)	Fund operating and capital expenditure.
Muswellbrook Shire ^e 1-year temporary	508(2)	14.73							14.73 (12.43)	Fund new and existing infrastructure and projects.
Not approved										
Upper Hunter Shire ^f	-	-	-	-	-	-	-	-	-	Maintain and renew infrastructure, fund new infrastructure investment and improve financial sustainability.
Willoughby City ^g	-	-	-	-	-	-	-	-	-	Undertake upgrade works on the Northbridge Plaza car park.

^a Kempsey Shire was granted an SV in 2008-09 which is due to expire on 30 June 2018. As a result, the net increase to general income will be 2.30% in 2018-19, which is equal to the rate peg. The approved SV can be retained in the rate base temporarily for 10 years until 2027-28.

^b Lismore City was granted an SV in 2013-14 that was due to expire on 30 June 2018. As a result, the net increase to general income will be 2.31% in 2018-19, which is close to the rate peg. The approved SV can be retained temporarily in the rate base for five years until 2022-23.

^c Shoalhaven City was granted an SV in 2017-18 which is due to expire on 30 June 2018. As a result, the net increase to general income will be 5.04% in 2018-19.

^d Kiama Council applied for a 6.00% SV in each year from 2018-19 to 2020-21 (cumulative 19.10%), to be retained permanently in the rate base.

^e Muswellbrook Shire applied for a 14.73% SV in 2018-19 to be retained permanently in the rate base.

^f Upper Hunter Shire applied for a 6.30% SV in each year from 2018-19 to 2020-21 (cumulative 20.12%) to be retained permanently in the rate base.

^g Willoughby City applied for a 3.06% SV in 2018-19, and to retain this increase in its rate base temporarily for four years until 2021-22.

Table D.2 Summary of Crown land adjustments for 2018-19 approved by IPART

Council	Previous owner	CLA for 18-19 – adjusted for rate peg/special variation (\$)	Permitted increase in general income for 18-19		
			Increase for CLA (%)	Increase for rate peg/special variation (%)	Combined increase (%)
Port Stephens	<ul style="list-style-type: none"> ▼ Landcom (2 parcels, residential rating category) ▼ Defence Housing Australia (7 parcels, residential rating category) 	7,317	0.02	2.30	2.32
City of Ryde ^h	<ul style="list-style-type: none"> ▼ Landcom (2 parcels, residential rating category) 	181,041	0.29	7.00	7.29
Sutherland Shire	<ul style="list-style-type: none"> ▼ Gandagarra Local Aboriginal Land Council (1 parcel, residential rating category) 	90,810	0.08	2.30	2.38

^h City of Ryde has a 508A special variation approved in 2015 consisting of increases of 7% per year for 4 years.

Table D.3 Summary of Minimum Rate decisions by IPART for 2018-19

Council	Minimum rate approved \$		
	2018-19	2019-20	2020-21
Approved in full			
Clarence Valley (Residential)	555.00	599.00	647.00
Randwick City (Residential)	805.68	850.15	897.08
Randwick City (Business)	1,298.32	1,369.99	1,445.61
Not approved			
Kiama Municipal ^a	-	-	-

^a Kiama Council applied for a 6.00% increase in the minimum amount of its business rates in each year from 2018-19 to 2020-21 in line with its SV application. This was not approved as the council did not adequately update and exhibit their IP&R documents.

Note: Not all categories or sub-categories of ordinary rates are subject to a minimum amount. Councils have discretion in adopting a minimum rate for a particular category or sub-category.