Narrabri Shire Council’s application for a special variation

Local Government — Determination
June 2011
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Inquiries regarding this document should be directed to a staff member:

Michael Seery (02) 9290 8421
Ken Maxwell (02) 9113 7712
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Determination and executive summary

The Independent Pricing and Regulatory Tribunal (IPART) is responsible for setting the amount by which councils can increase their general income each year. General income mainly includes rates income. We set a rate peg amount each year that applies to all councils. In addition, councils can apply to us for a special variation, which allows councils to increase their general income by more than the rate peg amount.

We have assessed and made a determination regarding the application by Narrabri Shire Council for a special variation to its general income in 2011/12.

We have decided not to approve the special variation sought by the council. The council will still be entitled to the rate peg increase.

We assessed the application against the criteria included in the Guidelines for the preparation of an application for a special variation to general income in 2011/2012 (the Guidelines) issued by the Division of Local Government, Department of Premier and Cabinet (DLG).

The determination was made under section 508(2) of the Local Government Act 1993. This report sets out our determination and explains the council’s application and our assessment of it.

1.1 Summary of Narrabri Shire Council’s application

Narrabri Shire Council applied for a special variation to increase its permissible general income by 8.79% in 2011/12. This increase would apply for 1 year only and would be removed from the rate base at the end of the year.

The special variation incorporates the rate peg increase that would otherwise be available to the council. IPART has set the rate peg increase for 2011/12 at 2.8%.

Narrabri Shire Council proposed to apply the rate peg increase to all rate categories and the remainder of the special variation only to mining companies. Average mining rates would increase from $64,108 in 2010/11 to $184,849 in 2011/12, an increase of 188%.

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1 Division of Local Government (DLG), Department of Premier and Cabinet, Guidelines for the preparation of an application for a special variation to general income in 2011/2012, December 2010.
Table 1.1 summarises the council’s application.

### Table 1.1 Narrabri Shire Council’s requested special variation, including rate peg

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage increase (%)</th>
<th>Additional income generated ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special variation (applicable only to the mining category)</td>
<td>5.42</td>
<td>568,695</td>
</tr>
<tr>
<td>Prior year catch-up and valuations objections(^a)</td>
<td>0.57</td>
<td>59,592</td>
</tr>
<tr>
<td>Rate peg (applicable to all rating categories)</td>
<td>2.80</td>
<td>293,622</td>
</tr>
<tr>
<td>Total</td>
<td>8.79</td>
<td>921,909</td>
</tr>
</tbody>
</table>

\(^a\) A carry-forward entitlement for 2011/12. It is not part of the special variation and IPART does not approve this amount.

Source: Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part A, 25 March 2011 and IPART calculations.

The council has advised that the purpose of the special variation is to address a significant shortfall in the funding needed to maintain the Shire’s road network infrastructure. The council has identified a $5m annual gap in road renewals funding and indicated that it would use revenue raised by the special variation from mining ratepayers (about $621,000) to maintain and repair roads primarily used by mining companies operating in the Shire.

### 1.2 IPART’s determination

Based on our assessment of Narrabri Shire Council’s application in line with the requirements of the *Local Government Act 1993* and the Guidelines, IPART has decided not to approve the special variation. In assessing Narrabri Shire Council’s application we found that the council’s application did not adequately meet all the criteria in the Guidelines for section 508(2) applications.

The council will still be permitted to increase its general income by the rate peg amount set by IPART, ie, 2.8%.

### 1.3 Summary of IPART’s assessment

In assessing Narrabri Shire Council’s application we found that the council’s application did not adequately meet all the criteria in the Guidelines for section 508(2) applications.

We found that the main purpose of the special variation was to increase funding for the renewal of roads affected by increased traffic due to the expansion of mining activity. We note that as a result of the recent expansion in mining activity in the area and the increased population, Narrabri Shire Council is facing pressures on
infrastructure and demands for services. We also note that the council has not applied for a special variation for at least 15 years.

We are not satisfied that the requested increase meets the criteria for the following reasons:

- The special variation proposed a very large one-off increase in rates to be paid only by the mining ratepayers.
- Mining companies objected to the special variation. Mining companies already contribute significant amounts through Voluntary Planning Agreements (VPA) to the maintenance and upgrading of council infrastructure, particularly roads. The application did not demonstrate that the council had taken into consideration the overall contribution to council revenue mining ratepayers should reasonably make.
- The application did not demonstrate that there was a close connection between the additional amount that the mining companies will pay and the damage caused to roads by the trucks that serve the mines.
- The road projects for which the special variation would be used were not clearly identified in the council’s asset management planning.

IPART notes that Narrabri Shire Council has advised its community that it intends to prepare an application for a multi-year special variation for the year 2012/13 and beyond, in conjunction with completing the implementation of the Integrated Planning and Reporting Framework (IPRF).

We encourage Narrabri Shire Council to consult with the community and undertake the strategic planning necessary to implement the IPRF. Development of a Long Term Financial Plan will provide a framework for the consideration of a range of financial policy options and, if appropriate, a basis for a future special rate variation proposal which:

- is consistent with the community’s priorities
- appropriately allocates the burden across categories of ratepayers
- has stronger community support.

Table 1.2 summarises our findings in relation to each of the section 508(2) assessment criteria.
Table 1.2  Assessment of Narrabri Shire Council’s special variation application

<table>
<thead>
<tr>
<th>Criteria</th>
<th>IPART findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Demonstrated need for the rate increase implied by the special variation</td>
<td>The council’s application identified a $5m annual gap in road renewals funding and a schedule of expenditure of about $621,000 on affected roads. These roads were not identified in the council’s Asset Management Plan (2008). The council has not sufficiently demonstrated that the mines that will pay the increased rates are those that cause damage to particular roads.</td>
</tr>
<tr>
<td>2. Adequate community consultation regarding the special variation</td>
<td>The council has consulted adequately with the stakeholders. Representations to the council and IPART from 2 of the 3 affected mining companies opposed the rate increases. The council acknowledges the issues raised by the mining companies and intends to continue to consult with them.</td>
</tr>
<tr>
<td>3. Reasonable impact on ratepayers</td>
<td>The increase will only be levied on mining companies. The proposed increase represents a very large, one-off percentage increase.</td>
</tr>
<tr>
<td>4. Sustainable financing strategy consistent with the principles of intergenerational equity</td>
<td>The special variation will have no impact on the council’s financial strategy as the road works will not go ahead without the additional revenue. The council has taken on debt to fund other capital works in the community and its debt servicing ratio is high.</td>
</tr>
<tr>
<td>5. An explanation of the productivity improvements the council has realised in past years, and plans to realise over the proposed special variation period</td>
<td>The council has identified productivity improvements that can be achieved in future years. These are significant when compared with the council’s expenditure.</td>
</tr>
</tbody>
</table>

1.4  Structure of this report

The rest of this report explains the council’s application and our assessment in more detail:

▼ Chapter 2 provides some background information, including Narrabri Shire Council’s profile, sources of revenue, and recent revenue and expenditure trends

▼ Chapter 3 summarises the council’s 2011/12 application for a special variation

▼ Chapter 4 discusses our assessment of the application against the 5 criteria included in the Guidelines in detail.
2 Background

Narrabri Shire is located inland in north west NSW. Other than the 3 townships of Narrabri, Boggabri and Wee Waa, the land is used predominantly for agriculture and mining. In 2009 the population was almost 14,000, although the council advised IPART that as a result of the expansion of mining activity, the number of residents had risen since then.

Compared with other councils in NSW, it is one of the more disadvantaged. Its SEIFA ranking is 39 (out of 152 councils) which places it in the top 30% of the state for relative disadvantage.2

In 2009/10 average residential rates were $732, which is higher than the average of $593 of other councils in the same DLG Group3 as Narrabri, and the average of $643 for all councils in NSW. Average mining rates were $52,143, lower than both the DLG Group 11 average of $75,254, and the NSW average of $107,544.4

Table 2.1 provides an overview of the council’s profile. The sections below provide further background information on the council’s application for a special variation, including its sources of revenue, recent expenditure and revenue trends, and previous applications for special variations.

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2 SEIFA is the Socio-Economic Index for Areas published by the Australian Bureau of Statistics and incorporates a number of individual indexes and can be used to determine the level of social and economic well-being in regions relative to one another. One of the indexes is the Index of Relative Socio-economic Advantage and Disadvantage for NSW in 2006. The SEIFA used in this report ranks Local Government Areas from 1 to 153, where 153 represents the least disadvantaged council area relative to all the other council areas in NSW. There are 152 local councils in NSW and 1 ranking for “unincorporated NSW included in the rankings.

3 DLG, Snapshot of NSW Councils: Comparative Information on NSW Local Government Councils 2008/09, p 11. The Australian Classification of Local Governments (ACLG) system classifies councils into 22 categories according to their socioeconomic characteristics and their capacity to deliver a range of services to the community. DLG has reduced this to 11 groups because some of the ACLG categories contained few or no councils in New South Wales. DLG Group 11 Councils are: Bellingen Shire Council, Cabonne Shire Council, Cooma-Monaro Shire Council, Corowa Shire Council, Cowra Shire Council, Forbes Shire Council, Greater Hume Shire Council, Gunnedah Shire Council, Inverell Shire Council, Leeton Shire Council, Moree Plains Shire Council, Muswellbrook Shire Council, Nambucca Shire Council, Narrabri Shire Council, Palerang Council, Tumut Shire Council, Upper Hunter Shire Council, Warrumbungle Shire Council, Yass Valley Council and Young Shire Council.

Table 2.1 Narrabri Shire Council profile, 2009/10

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Area (km²)</strong></td>
<td>12,448</td>
</tr>
<tr>
<td><strong>Population</strong></td>
<td>13,693</td>
</tr>
<tr>
<td><strong>Average annual income, 2008 ($)</strong></td>
<td>35,348</td>
</tr>
<tr>
<td><strong>Growth in average annual income, 2005 to 2008 (%)</strong></td>
<td>3.7</td>
</tr>
<tr>
<td><strong>Ratio of average residential rate (2009/10) to average annual income, 2008 (%)</strong></td>
<td>2.1</td>
</tr>
<tr>
<td><strong>SEIFA (NSW ranking)a, 2006</strong></td>
<td>39</td>
</tr>
<tr>
<td><strong>Number of annual rate assessmentsb</strong></td>
<td>6,741</td>
</tr>
<tr>
<td><strong>Average rates 2009/10 ($)</strong></td>
<td></td>
</tr>
<tr>
<td>residential</td>
<td>732</td>
</tr>
<tr>
<td>farming</td>
<td>2,708</td>
</tr>
<tr>
<td>business</td>
<td>1,782</td>
</tr>
<tr>
<td>mining</td>
<td>52,143</td>
</tr>
<tr>
<td><strong>Annual operating expenditure ($m)</strong></td>
<td>26.418</td>
</tr>
<tr>
<td><strong>Staff (FTEs)</strong></td>
<td>127</td>
</tr>
<tr>
<td><strong>DLG groupingc</strong></td>
<td>11, Rural, Very Large, Agricultural</td>
</tr>
<tr>
<td><strong>IPRF groupingd</strong></td>
<td>3</td>
</tr>
</tbody>
</table>

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**Sources of revenue**

In 2009/10 Narrabri Shire Council received 40.5% of its total revenue from rates and annual charges (Figure 2.1), and this percentage is higher than the average percentage for all other councils in DLG Group 11 of 34.3%, but lower than the NSW average of 47.4%. Grants funding contributed 28.5% of total revenue, and user fees and charges provided 16.3%. Contributions based on new development made up only 2.6% of total revenue.

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2.2 Expenditure and revenue trends

Historical revenue and expenditure (in real terms) are depicted in Figure 2.2. Expenditure has declined significantly over the past 10 years, and although expenditure exceeded revenue until 2003/04, since then revenue has been close to expenditure. However, in 2009/10, revenue exceeded expenditure by $5m. While total revenue and expenditure have fluctuated over the past decade, rates revenue has remained relatively stable.
2.3 Previous special variation applications

Narrabri Shire Council has not applied for a special variation since 1995/96. During consultation on the proposed special variation, the council informed the community that it would consider applying for a multi-year special variation increase once it has implemented the Integrated Planning and Reporting Framework (IPRF), due to commence on 1 July 2012.\footnote{Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part B, 25 March 2011, Appendix 3, Council Report, p 1.}

\footnote{DLG, Special Variation Master Record, copy provided to IPART in October 2010.}
Narrabri Shire Council’s 2011/12 application

Narrabri Shire Council applied to IPART for a special variation to its general income in 2011/12 under section 508(2) of the Local Government Act 1993. The sections below summarise the council’s application, then explain how Narrabri Shire Council proposes to allocate the rate increases implied in its application among ratepayers, and why it considers these increases are necessary.

3.1 Summary of Narrabri Shire Council’s application

Narrabri Shire Council applied to increase its general income by 8.79% in 2011/12. This increase would apply for 1 year only and would be removed from the rate base at the end of the year. The increase sought by the council, including the rate peg, is presented in Table 3.1 below.

The special variation amount requested by Narrabri Shire Council includes:

- a mining levy equivalent to 5.42% of total rate revenue
- the rate peg amount that would otherwise be available to council
- a permissible prior year catch-up amount which is not assessed by IPART.

<table>
<thead>
<tr>
<th>Table 3.1 Narrabri Shire Council’s requested special variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Component</td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td>Special variation (applicable to the mining category)</td>
</tr>
<tr>
<td>Prior year catch-up and valuations objections*</td>
</tr>
<tr>
<td>Rate peg (applicable to all rating categories)</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

* A carry-forward entitlement for 2011/12. It is not part of the special variation and PART does not approve this amount.

Source: Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part A, 25 March 2011, Worksheet 4 and IPART calculations.

If the special variation is not approved, the rate peg increase will still apply.
3.2 How does Narrabri Shire Council propose to allocate the rate increase among ratepayers?

Narrabri Shire Council has 4 rate categories, residential, business, farmland and mining. The council proposed to apply the rate peg increase to all rate categories, with the remainder of the special variation increase applying only to mining ratepayers. The council issues 6 mining assessments, for mines operated by consortia involving 3 principal mining companies.

In its application, the council stated that its road network had deteriorated due to increased mining activities and requires additional maintenance. Mining operators will be the main beneficiaries of the road works (together with some residents and mining staff), and the council considers that they have the greatest capacity to pay.

Table 3.2 shows that the requested special variation will increase the mining category’s contribution to rates by 188%, from $384,650 in 2010/11 to $1,109,098 in 2011/12. As a result, mining companies’ contribution to total rates revenue will increase from 3% to approximately 10%.

Table 3.2 Effect of the requested special variation on average mining rates

<table>
<thead>
<tr>
<th></th>
<th>2010/11</th>
<th>2011/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average mining rates ($)</td>
<td>64,108</td>
<td>184,849</td>
</tr>
<tr>
<td>$ increase</td>
<td></td>
<td>120,741</td>
</tr>
<tr>
<td>% increase</td>
<td></td>
<td>188</td>
</tr>
</tbody>
</table>

Source: Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part A, 25 March 2011, Worksheet 5 and IPART calculations.

3.3 Why does Narrabri Shire Council consider the proposed increases are necessary?

Narrabri Shire Council’s application states that the special variation addresses a significant shortfall in the revenue required to maintain the council’s road network infrastructure. The gap is estimated to be around $5m per annum and increasing. The application states that the funds will be used for upgrade and maintenance works on 2 roads, identified by the council as being heavily affected by the mining companies. The council states that deterioration of the road infrastructure creates occupational health and safety (OH&S) and other risk issues for both council and mining operations. The council considers that the proposed road upgrades will benefit residents, the mines and mining staff. The purpose of the special variation is consistent with the council’s objectives in the Management Plan 2010/11.

8 Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part B, 25 March 2011, pp 3 and 14.
9 Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part A, 25 March 2011, Worksheets 2 and 3.
10 Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part B, pp 3-4.
IPART’s assessment of the council’s application

IPART has assessed and made a determination on the application by Narrabri Shire Council for a special variation to its general income in 2011/12. We decided not to approve the special variation sought by the council. The council will still be entitled to the rate peg increase.

We assessed Narrabri Shire Council’s application for a special variation as a whole taking account of the purpose and magnitude of the special variation it sought. This provided relevant context for assessing the application against the 5 assessment criteria included in the Guidelines. These criteria are:

- demonstrated need for the rate increase implied by the special variation
- adequate community consultation regarding the special variation
- reasonable impact on ratepayers
- sustainable financing strategy consistent with the principles of intergenerational equity
- an explanation of the productivity improvements the council has realised in past years, and plans to realise over the special variation period.

The sections below summarise our overall findings, then explain our assessment and findings on each criteria.

4.1 Summary of findings against the 5 criteria

Narrabri Shire Council’s application for a special variation in 2011/12 is seeking a significant increase in its general income above the rate peg, which would mean that mining ratepayers would incur a very large increase in average rates. In assessing Narrabri Shire Council’s application we found that the main purpose of the special variation was to increase funding for the renewal of roads affected by increased traffic due to the expansion of mining activity. We note that as a result of the recent expansion in mining activity in the area and the increased population, Narrabri Shire Council is facing pressures on its infrastructure and demands for services. We also note that the council has not applied for a special variation for at least 15 years.

On balance IPART was not satisfied that the council’s application adequately met all 5 criteria in the Guidelines, and we have decided not to approve the special variation.
The main reasons for not approving the council’s application are:

- The special variation proposed a very large one-off increase in rates to be paid only by the mining ratepayers.
- Mining companies objected to the special variation. Mining companies already contribute significant amounts through Voluntary Planning Agreements to the maintenance and upgrading of council infrastructure, particularly roads. The application did not demonstrate that the council had taken into consideration the overall contribution to council revenue mining ratepayers should reasonably make.
- The application did not demonstrate that there was a close connection between the additional amount that the mining companies will pay and the damage caused to roads by the trucks that serve the mines.
- The road projects for which the special variation would be used were not clearly identified in the council’s asset management planning.

We note that Narrabri Shire Council intends to prepare an application for a multi-year special variation for the year 2012/13 and beyond, in conjunction with completing the implementation of the Integrated Planning and Reporting Framework (IPRF).¹¹

We encourage Narrabri Shire Council to consult with the community and undertake the strategic planning necessary to implement the IPRF. Development of a Long Term Financial Plan will provide a framework for the consideration of a range of financial policy options and, if appropriate, a basis for a future special rate variation proposal which:

- is consistent with the community’s priorities
- appropriately allocates the burden across categories of ratepayers
- has stronger community support.

4.2 Criterion 1 – Demonstrated need for the special variation

Councils seeking special variations must demonstrate that their proposed increase in general income is necessary. This includes supporting the application with relevant strategic and financial planning information; providing evidence that the income raised by the special variation will be used to fund an efficient and feasible program of expenditure; and (if possible) showing how the special variation will improve their financial sustainability.

Narrabri Shire Council’s application identified a $5m annual gap in road renewals funding and a provided a schedule of expenditure of about $621,000 which would be

raised by the special variation, for upgrades to 2 roads affected by activities of mining companies.

We are not satisfied the council has demonstrated the need for the special variation as:

 these roads were not identified in work program in the council’s Asset Management Plan (2008)

 the council has not sufficiently demonstrated the nexus between the projects identified and the need for increasing mining category rates.

4.2.1 Need for the variation

Narrabri Shire Council submitted that the special variation was needed to meet the identified shortfall in funding for road infrastructure, and that the revenue from the special variation would be spent on upgrading and maintaining 15.5 kilometres of Braymont Road and 8.3 kilometres of Hoad Lane, which were identified as being heavily affected by the mining companies. The application also noted that the special variation would be only applied to mining companies because of their capacity to pay. We do not consider that the application demonstrated that there was a close connection between the additional amount that the mining companies would pay and the damage caused to roads by the trucks that serve the mines.

The council submitted that deteriorating road infrastructure presents OH&S and risk management issues for the council and mining operations, and that the road improvements will also benefit residents and mine employees.

We considered whether the requested special variation is supported by relevant strategic and financial planning information. The application is consistent with the council’s strategic objectives in relation to roads — to maintain essential road infrastructure and pursue all avenues for additional funding to address the deteriorating condition of Council’s road infrastructure — which are contained in the 2010/11 Management Plan.

12 Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part B, 25 March 2011, pp 3 and 14, Appendix 1, Schedule of proposed expenditure of special variation funds and Appendix 7, Map.

13 Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part B, 25 March 2011, p 3.
The council’s *Infrastructure and Asset Management Plan for Rural Roads and Village Streets* (November 2008) indicates that the council is currently underfunding renewals to the value of $5.39m per annum. The application stated that ‘the relevant council staff’ identified that Braymont Road and Hoad Lane should be the 2 roads benefitting from revenue generated by the special variation. These roads are not identified in the roads work program of the *Asset Management Plan (2008)*. However, the council further advised us that the roads were identified as being in need of urgent maintenance in accordance with the Guidelines in the Road Asset Management Plan but, because of the $5m deficit in the roads maintenance budget, they were not given priority status.

We encourage Narrabri Shire Council to review its Asset Management Plans when implementing the IPRF. This would enable the council to comprehensively assess its infrastructure needs and assign priorities.

### 4.2.2 The proposed program of expenditure

The council’s application included a schedule outlining expenditure of $621,000 from special variation funds on works for the 2 roads. The council stated that if the special variation is approved, the road works will be incorporated into the 2011/12 capital works program, with funding and time allocated in the roads budget.

### 4.2.3 Demonstrated use of efficient cost estimates

The council has advised that the schedule of proposed expenditure for the 2 roads is not based on an independent assessment, but rather an estimate based on the costs incurred on similar works undertaken this year by the council and the NSW Roads and Traffic Authority (RTA), noting that RTA costs are benchmarked.

Given the nature and extent of the work to be undertaken, we have no concerns about the proposed expenditure estimates.

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16 Narrabri Shire Council, Email to IPART dated 10 May 2011.
17 Narrabri Shire Council, *Section 508(2) Special Variation Application Form – Part B*, 25 March 2011, p 15 and Appendix 1, Schedule of proposed expenditure of special variation funds.
18 Narrabri Shire Council, Letter to IPART dated 14 April 2011.
4.2.4 Will the special variation have a positive effect on the council’s sustainability?

Narrabri Shire Council’s application presented the council’s broader financial projections based on 2 budget scenarios:

1. Baseline scenario – the special variation is not approved and the proposed program of expenditure does not proceed.

2. Special variation scenario – the special variation is approved and the proposed program of expenditure proceeds.\footnote{Narrabri Shire Council, \textit{Section 508(2) Special Variation Application Form – Part B}, 25 March 2011, pp 9-10.}

The council stated that the proposed expenditure would not proceed unless the special variation is approved.\footnote{Narrabri Shire Council, \textit{Section 508(2) Special Variation Application Form – Part B}, 25 March 2011, p 6.} Overall, we consider the special variation would have a small positive impact on the council’s financial sustainability over the year of the special variation.

4.2.5 Alternative funding options

Narrabri Shire Council’s application states that it has considered other options to address the identified gap of approximately $5m per annum in road maintenance funding. It notes that the unprecedented population growth from the recent expansion of mining activities has increased the need for major upgrades to council roads and also to community facilities. The application notes:

\begin{itemize}
  \item A VPA in place with one mine allocates $10m to infrastructure upgrades of a Shire major road (sealing and bridge repair), and VPAs fund other road infrastructure and community infrastructure such as the Narrabri Swimming Pool. Another VPA under negotiation proposes contributions which will be allocated both to Shire-wide road infrastructure and infrastructure near the mine.
  \item Changes to mowing maintenance and road patching methods has freed up $500,000 for other road works. These funds will be allocated to necessary upgrades of roads in the western part of the Shire, where there are no mines, and therefore no potential for funding through VPAs.
  \item The council is trying to carry out other urgent major infrastructure upgrades by reducing expenditure, applying funds to capital projects, and borrowing funds for completion of projects.\footnote{Narrabri Shire Council, \textit{Section 508(2) Special Variation Application Form – Part B}, 25 March 2011, pp7, 15 and 16.}
\end{itemize}

We consider that as the council has a high debt servicing ratio, extending debt is not a reasonable option to address the purposes of the special variation (see below section 4.5.2).
4.3 Criterion 2 – Adequate community consultation

Councils seeking special variations must demonstrate that they have undertaken adequate community consultation regarding the reasons for the variation and the associated program of expenditure, and its impact on ratepayers. The consultation material should be clear and accurate and explain clearly what the special variation will be used for and the impact on ratepayers.

We consider that Narrabri Shire Council has adequately consulted the community about the special variation application, and note that the rate increase is strongly opposed by mining companies.

The Guidelines state that councils must outline their strategies to overcome any issues of common concern that have arisen in opposition to the special variation. The council has acknowledged the issues raised by the mining companies and has advised us that it will continue to consult with them on these issues. However the council maintains that the infrastructure funding shortfall has been made worse by the effects of the population influx resulting from the expansion of mining activity in the Shire.22

4.3.1 Community consultation strategies

Narrabri Shire Council informed the community about its decision to apply for the special variation through the local newspaper, by making the Council Report available on the internet and at the council building and its libraries, and at a public meeting. The General Manager advised each mining ratepayer of the proposed special variation application by letter, held an information session to discuss the proposal, and consulted with them individually. Mining company representatives also attended the public meeting.23

The council initially advised mining ratepayers that the council had resolved to seek a 6% increase above the rate peg to apply only to the mining rating category. Later, the council clarified to the mining companies that the actual increase in each mining rate assessment would be of a significantly higher order.

4.3.2 Outcomes from community consultation

The general community appeared to show little interest in the proposed special variation rate increase. Only 1 resident attended the public meeting and none responded to the council in writing. A resident contacted IPART directly to advise that he would not support an increase in residential rates when the need for road renewals comes from the mining industry.

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22 Narrabri Shire Council, Email to IPART dated 10 May 2011.
Responses from mining ratepayers about the proposed special variation are outlined in section 4.3.3 below.

### 4.3.3 Representations from the public to IPART on the proposed special variation

The mining companies are the main stakeholders affected by the special variation application. The council provided IPART with responses from 2 of the 3 companies operating mines in the Shire (which together operate 5 of the 6 mines) and 1 from a company which intends to commence operations in 2013.

The letters raised specific issues which are noted below. All 3 opposed the special variation, mainly on the grounds of equity, given the other contributions to council revenue made by mining companies under VPAs. All had concerns about the council’s intention to seek a special variation for further rate increases in the future. The 2 current ratepayers also noted some initial confusion about how the impact of the 6% increase above the rate peg in the council’s rates translated into a percentage increase in some mining rate assessments of between 190% and 310%.

Whitehaven Coal Mining Limited opposed the special variation proposal, stating:
- It is unfair in a general sense given the benefits increased mining activity brings to the Shire and the council by way of increased employment, a potential increase in the rates base from new development, increased business opportunities and the mining companies’ contributions to council revenue for community enhancement.
- Specifically, it is unfair that the Narrabri Coal operation will pay increased rates but no traffic associated with the mine uses the roads identified for upgrading.
- Although the 2 roads are used by mining-associated traffic, the council should consider how other heavy vehicle movements contribute to their deterioration.
- The council will need to provide details of proposed expenditure so the company can assess any future special variation application for ongoing increases in rates.

Boggabri Coal Pty Limited opposed the special variation, noting:
- Under VPAs Boggabri Coal has committed to contribute more than $10m to the council, substantially for road upgrades, but also for community facilities such as the Narrabri Caravan Park and Narrabri Swimming Pool.
- The company understands the council’s concern for future road infrastructure costs associated with the expansion of the mining industry, but cannot support the proposed increase without discussing how the funds will be used and future funding requirements.

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24 Narrabri Shire Council, Letter to IPART dated 14 April 2011. The 2 companies currently paying mining rates also forwarded copies of their letters to IPART.
Alternative, more equitable, options for meeting council infrastructure needs are proposed for consideration, such as redirecting some of the mining royalties paid to the State Government to councils, and use of a per tonnage levy based on production.

Aston Resources opposed the mechanism in the special variation application, noting:
- The current special variation would not apply to the company, but when mining operations begin in 2013 and their rating category changes, they would be subject to any annual or multi-year increases planned by the council.
- There are other mechanisms for raising the revenue the council needs for infrastructure, such as the VPA the company is proposing which provides for a significant up-front payment for infrastructure and ongoing annual payments based on the mine’s production, which would be directed to infrastructure.
- If the VPA is implemented, the company’s contributions would be more than sufficient compensation for infrastructure improvements and no further rate rises should apply.

We have considered these representations and the council’s response in making our determination.

4.4  **Criterion 3 – Reasonable impact on ratepayers**

This criterion is important, given that the primary purpose of regulating council revenues is to protect ratepayers from unreasonable increases in rates. To assess whether a council’s application meets the criterion, we considered the magnitude of the impact of rate rises resulting from the proposed special variation, the ratepayers’ capacity to pay the increased rates, and evidence of community support (as discussed in section 4.3 above).

Overall, we consider that the requested special variation imposes a very large, one-off percentage increase, and note that the mining ratepayers strongly oppose the proposed special variation, and their reasons for doing so.

We note also that mining companies make significant contributions to council revenue under VPAs for community infrastructure projects, and that the majority of these are directed to road infrastructure.

In our assessment of Criterion 4 in section 4.5 below, we note that implementing the IPRF will assist Narrabri Shire Council in determining the appropriate level of contributions to council revenue to be made by mining and other ratepayers.

4.4.1  **Comparative assessment of Narrabri Shire Council’s mining rates**

Under the special variation proposal, average mining rates would increase by 188% from $64,108 in 2010/11 to $184,849 in 2011/12. In 2009/10 Narrabri Shire’s average
mining rates were well below average mining rate levels in Group 11 councils and NSW as a whole. The proposed increases will mean that 2011/12 average mining rates are significantly higher than both Group 11 and NSW averages (see Table 4.1).

We note that there are big variations in the average mining rates within Group 11 councils, and also across NSW, which could reflect the different types of mines and how each council determines mining rates.

Table 4.1 Narrabri Shire Council mining rates compared with DLG Group 11 and NSW averages

<table>
<thead>
<tr>
<th></th>
<th>Narrabri Shire Council</th>
<th>Group 11 average</th>
<th>NSW average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average mining rate 2009/10 ($)</td>
<td>52,143</td>
<td>75,254</td>
<td>107,544</td>
</tr>
<tr>
<td>Narrabri compared with Group 11 and NSW averages (%)</td>
<td>-31</td>
<td>-52</td>
<td></td>
</tr>
<tr>
<td>Average mining rate 2010/11 ($)</td>
<td>64,108</td>
<td>77,211&lt;sup&gt;a&lt;/sup&gt;</td>
<td>110,340&lt;sup&gt;a&lt;/sup&gt;</td>
</tr>
<tr>
<td>Narrabri compared with Group 11 and NSW averages (%)</td>
<td>-17</td>
<td>-42</td>
<td></td>
</tr>
<tr>
<td>Average mining rate 2011/12 ($)</td>
<td>184,849</td>
<td>79,373&lt;sup&gt;a&lt;/sup&gt;</td>
<td>113,429&lt;sup&gt;a&lt;/sup&gt;</td>
</tr>
<tr>
<td>Difference between Narrabri and Group 11 and NSW average (%)</td>
<td>133</td>
<td>63</td>
<td></td>
</tr>
</tbody>
</table>

<sup>a</sup> Average rates for these years are not yet available. To compare the council’s proposed average rate levels with group and state averages in 2010/11 and 2011/12 we have applied the relevant rate peg increases to the group and state average mining rate levels in 2009/10.

**Note:** A negative percentage indicates that Narrabri rates are lower, and a positive percentage indicates that Narrabri rates are higher than the relevant average.

**Source:** DLG, unpublished comparative data, 2009/10 and IPART calculations.

### 4.4.2 Total contributions by mining ratepayers to council revenue

In assessing the impact of the proposed increases on ratepayers, IPART considers that it is appropriate to take into account the total level of contribution to council revenues of the ratepayers affected by a special variation. This is particularly important where contributions other than rates are directed to the purposes for which the special variation increase is sought.

Mining companies make large contributions to Narrabri Shire Council in addition to paying rates. The council has VPAs in place with 2 mining companies, one of which will contribute approximately $10.6m. It is negotiating a VPA with another company which plans to commence mining operations in 2013, providing for an up-front payment and resource contributions based on production tonnage per annum. The council has submitted that VPAs allocate funds to infrastructure projects that are
affected by mining activities and the influx of people brought to the Shire by increased mining activity. The revenue from the VPAs is mainly, but not exclusively, directed towards the costs of maintaining road infrastructure.25

### 4.4.3 Capacity to pay

The council’s application indicated that the special variation over the amount of the rate peg will be only levied on mining companies as they have the highest capacity to pay (compared with residential, farmland and business ratepayers).26

We note that the mining companies objected to the special variation on equity principles, rather than on capacity. None indicated that the increases would cause financial hardship.

### 4.5 Criterion 4 – Sustainable financing strategy consistent with intergenerational equity principles

Councils seeking special variations must demonstrate that they have considered the use of all available financing options to address their capital expenditure requirements. Their financing strategy must be both sustainable and ensure intergenerational equity. The concept of intergenerational equity means that the costs of long lived assets (like infrastructure) are shared between current and future users, based on their share of the use of these assets over their life. For example, this may be achieved by council borrowings, which spread the financing costs of infrastructure over a long period, rather than meeting these costs through large rate increases in the short to medium term.

Overall we consider that the special variation will have no impact on the council’s financial strategy as the road works will not go ahead without the additional revenue. As discussed in section 4.2.5 above, the council has considered alternative sources of funding the proposed roadwork programs. The council has taken on debt to fund capital works in the community and its debt servicing ratio is high.

In assessing the special variation application, we have considered it in the context of Narrabri Shire Council’s overall financing strategy for maintaining and upgrading its infrastructure.

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25 Narrabri Shire Council, Section 508(2) Special Variation Application Form – Part B, 25 March 2011, pp 7 and 15.
We note that over the past 10 years, council revenues and expenditure have fallen (see Figure 2.2 above) and we acknowledge that the council has not made a special variation application for at least 15 years. We also acknowledge the council’s submission that all Shire infrastructure is aged and in need of upgrade to meet the demand created by the recent unprecedented growth in population generated by expansion of mining activity.

It is clear that the council needs to consider all possible sources for raising the revenue required to undertake infrastructure upgrades it identifies as necessary.

In undertaking the strategic and financial planning that the council is required to do to implement the IPRF by June 2012, the council will engage with the community to establish priorities and consider the resources it needs to upgrade infrastructure across the Shire, and the range of funding options available. In this context, the council should consider what mining companies should reasonably contribute to council revenue, and, if necessary, the contributions that should be made by other ratepayers.

4.5.1 Council’s financing strategy for infrastructure works

Narrabri Shire Council’s strategy for funding capital works consists of debt and voluntary contributions from mining companies allocated to road and community infrastructure. The council considers that the special variation will not affect its sustainable financing strategy because the 2 proposed road projects will not go ahead without the special variation approval.

4.5.2 Sustainability of debt

A council’s financing strategy is a key part of its overall financial strategy. The strategy is considered sustainable when the council has the ability to meet services and infrastructure levels and standards without disruptive increases in rates and charges or disruptive cuts to services.

Narrabri Shire Council’s net debt position was $3.8m in 2009/10, while its debt service ratio in 2010/11 is 19.15% and is expected to remain around this level until 2013/14. This is close to the DLG’s recommended maximum of 20%, and indicates that the council takes on high levels of debt to meet its capital expenditure requirements.27

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4.5.3 **Consistency of financing strategy with principles of intergenerational equity**

Narrabri Shire Council stated its general financing strategy is consistent with principles of intergenerational equity. It has raised debt for capital expenditure works such that its debt servicing ratio is close to the recommended DLG maximum.28

4.6 **Criterion 5 – Productivity improvements**

Councils seeking special variations must demonstrate that they have implemented a program of productivity or efficiency improvements to ease expenditure pressures before considering an increase in rates. In particular, they need to provide details of the productivity improvements they have realised over the past 2 or more years, and the efficiencies and productivity improvements they propose to realise over the period of the special variation.

The council has identified productivity improvements that can be achieved in future years, but these have not yet been implemented. The additional savings identified are significant when compared with the council’s expenditure. Overall, we consider the council has satisfied this criterion.

Narrabri Shire Council’s application does not refer to productivity improvements in the past 2 years. However, the council has identified specific opportunities to increase productivity in the future and has quantified expected savings, which will represent about 2.5% of the council’s annual operating expenditure (as of 2009/10).

The council proposes it will achieve the following productivity improvements and expenditure reductions:

- $350,000 in road patching expenses following the purchase of a ‘jet patcher’
- $270,000 in annual savings after reviewing mowing and slashing services
- cost savings of $50,000 will be realised following the renegotiation of an airport contract.29

As part of our assessment, we examined comparative data on productivity from DLG for 2009/10 (see Table 4.2). We found the council has shown little improvement in its performance as measured by selected indicators over a 2-year period, however, the figures are similar to Group 11 averages.

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### Table 4.2 Narrabri Shire Council’s performance on indicators of productivity

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>FTE</td>
<td>129</td>
<td>127</td>
<td>147</td>
</tr>
<tr>
<td>Average cost per FTE ($)</td>
<td>64,140</td>
<td>68,244</td>
<td>65,474</td>
</tr>
<tr>
<td>Employee cost as a total of operating expenditure (%)</td>
<td>30.5</td>
<td>32.8</td>
<td>36.1</td>
</tr>
</tbody>
</table>

**Source:** DLG, unpublished comparative data, 2009/10.
## Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Australian Bureau of Statistics</td>
</tr>
<tr>
<td>ACLG Grouping</td>
<td>The Australian Classification of Local Governments system which classifies councils into 22 categories according to their socioeconomic characteristics and their capacity to deliver a range of services to the community</td>
</tr>
<tr>
<td>Asset renewal ratio</td>
<td>Net change in asset value (infrastructure, property, plant and equipment) over previous year divided by depreciation expense</td>
</tr>
<tr>
<td>Assumed rate peg</td>
<td>The rate peg for 2011/12 is known. IPART set the rate peg for 2011/12 in December 2010 at 2.8%. The rate peg has not yet been set for future years. IPART has assumed the rate peg will be 3.0% in all future years</td>
</tr>
<tr>
<td>Broad liabilities ratio</td>
<td>Total debt plus cost to clear infrastructure backlogs (Special Schedule 7) divided by operating revenue</td>
</tr>
<tr>
<td>Business rate</td>
<td>Category of ordinary rate for an area of land that has not been categorised as residential, farmland or mining and at which a complex of “business” activities are carried on in a fairly concentrated manner and with a high degree of congruity and homogeneity</td>
</tr>
<tr>
<td>Capital expenditure</td>
<td>Funds spent to acquire or upgrade physical assets such as buildings and machinery</td>
</tr>
<tr>
<td>Catch-up</td>
<td>Section 511 of the Local Government Act 1993 allows a Council to increase rates and charges for the next 2 years where Council did not apply the maximum general increase in the previous year permitted under the Act. Approval of the Minister is not required for a catch-up increase (unless the Council contravenes section 511)</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Contribution plan</td>
<td>A plan which authorises the levy that a council may impose on new development to help fund the cost of providing new public infrastructure and services in accordance with section 94A of the <em>Environmental Planning and Assessment Act 1979</em></td>
</tr>
<tr>
<td>CPI</td>
<td>Consumer Price Index</td>
</tr>
<tr>
<td>Debt service ratio</td>
<td>Net debt service cost divided by revenue from continuing operations</td>
</tr>
<tr>
<td>DLG</td>
<td>Division of Local Government, Department of Premier and Cabinet (NSW)</td>
</tr>
<tr>
<td>Farmland rate</td>
<td>Category of ordinary rate for an area of land that has not been categorised as rural residential land and for which the dominant use is for farming</td>
</tr>
<tr>
<td>FTE</td>
<td>Full-time equivalent</td>
</tr>
<tr>
<td>General income</td>
<td>Income from ordinary rates, special rates and annual charges other than: water supply and sewerage special rates and charges; (domestic) waste management services charges; and annual charges referred to in section 611 of the <em>Local Government Act 1993</em></td>
</tr>
<tr>
<td>Infrastructure backlog</td>
<td>Cumulative value of a council’s past annual expenditure requirements for renewing/replacing existing infrastructure that has not been met from its annual capital expenditure</td>
</tr>
<tr>
<td>Intergenerational equity</td>
<td>The costs of long lived assets (like infrastructure) being shared between current and future users, based on their share of the use of the asset over its life</td>
</tr>
<tr>
<td>IPRF</td>
<td>Integrated Planning and Reporting Framework</td>
</tr>
<tr>
<td>LGA</td>
<td>Local Government Area</td>
</tr>
<tr>
<td>LGSA</td>
<td>Local Government and Shires Associations of NSW</td>
</tr>
<tr>
<td>Minimum rate</td>
<td>Discretionary rate level set by a council (in accordance with section 548 of the <em>Local Government Act 1993</em>) to represent the lowest possible rate (ordinary or special) payable by a ratepayer in an ad valorem rating system where a base amount is not applied</td>
</tr>
<tr>
<td>Net debt position</td>
<td>Financial liabilities less financial assets</td>
</tr>
<tr>
<td>Glossary</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td><strong>Net operating position</strong></td>
<td>Total operating revenue less total operating expenditure</td>
</tr>
<tr>
<td><strong>Operating balance ratio</strong></td>
<td>Net operating result (excluding capital items) as a percentage of operating revenue (excluding capital items)</td>
</tr>
<tr>
<td><strong>Operating expenditure</strong></td>
<td>Expenditure for the normal day to day operation of council services (excluding costs relating to the capital expenditure of assets or repayment of loans)</td>
</tr>
<tr>
<td><strong>Operating revenue</strong></td>
<td>Revenue for the normal day to day operation of council services (excluding costs relating to the capital expenditure of assets or repayment of loans)</td>
</tr>
<tr>
<td><strong>Ordinary rate</strong></td>
<td>A levy on land that council is required to make each year in accordance with section 494 of the <em>Local Government Act 1993</em> and for which there are 4 categories: farmland, residential, mining and business</td>
</tr>
<tr>
<td><strong>Permissible general income</strong></td>
<td>The maximum level of general income that council can generate in the financial year based upon the previous year’s notional general income level plus the annual dollar increase permitted by the special variation or rate peg percentage</td>
</tr>
<tr>
<td><strong>Productivity</strong></td>
<td>An increase in output (eg, council service) per unit of input (eg, council FTE)</td>
</tr>
<tr>
<td><strong>Program of expenditure</strong></td>
<td>Sum of all additional expenditure (eg, for a capital works project) for which council is seeking the special variation</td>
</tr>
<tr>
<td><strong>Rate peg</strong></td>
<td>Percentage by which a council may increase their maximum general income in a financial year compared with the previous financial year, when it has not been granted a special variation for a higher percentage increase</td>
</tr>
<tr>
<td><strong>Rates and annual charges ratio</strong></td>
<td>Rates and annual charges divided by operating expenses</td>
</tr>
<tr>
<td><strong>Residential rate</strong></td>
<td>Category of ordinary rate for an area of land which: the dominant use is for residential accommodation (other than a hotel, motel, guest-house, backpacker hostel or nursing home or for any other form of residential accommodation, not being a boarding house or lodging house); is zoned vacant land for residential purposes; or is rural residential land</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>--------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Special rate</td>
<td>Levy for works or services provided or proposed to be provided by a council which should benefit the ratepayers who must pay the levy</td>
</tr>
<tr>
<td>Special variation</td>
<td>The percentage amount by which a council is granted approval to increase its maximum general income in a single year (under section 508(2) of the <em>Local Government Act 1993</em>) and for 2 to 7 years (under section 508A of the <em>Local Government Act 1993</em>)</td>
</tr>
<tr>
<td>Unrestricted current ratio</td>
<td>Unrestricted current assets divided by unrestricted current liabilities</td>
</tr>
</tbody>
</table>