

## **Minimum rate increase above statutory limit Application Part B**

For 2014/15

Issued October 2013

**Insert Name of Council**

Date Submitted to IPART: 24 March 2014

Council Contact Person: Paul Luff

Council Contact Phone: 02 69 440 200

Council Contact Email: [mail@gundagai.nsw.gov.au](mailto:mail@gundagai.nsw.gov.au)



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## Criterion 1: Rationale for increase in minimum rates

The purpose of this application is to seek approval for a Special Rate “Minimum” amount greater than the \$2 figure identified at Sub-Section 548 (3) of the Local Government Act (LGA) 1993. IPART entertained a similar request for 2013/14 where it approved an application by Council for a minimum Town Improvement District Special Rate of \$197.85.

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

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

but not limited to these.

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it was indeed considered to be an Ordinary Rate in the legislation until 1993, at which stage the old Act was repealed.

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

In order to clarify the issue for 2010/11 Council actually named the rate a “Special Rate” in its resolution to adopt the rate and in doing so sought Ministerial approval for a minimum rate of \$179.80 per sub-Section 548 (3). The basis for this figure was simply the permitted minimum for 2009/10 of \$175.20, expanded by the rate peg increase of 2.6% for 2010/11. Approval was provided. At the same time the Department suggested Council should visit its rating structure with a view to assessing the suitability of a differential Ordinary rate for the township area instead of two separate rates.

Accordingly the Council did as requested however at its Ordinary Meeting of 8 March 2011 it decided to maintain the two Funds (General Fund and TID Fund) and as an extension of this decision sought approval for a minimum of the Special Rate for the TID Fund of \$184.80 for 2011/12. Again this amount was calculated on the same basis as in 2010/11 year i.e. current year amount extended by the rate peg determination. An application for an increase along the same lines was approved by IPART for 2012/13, yielding an increase in the minimum of \$6.60 to \$191.40. A similar position existed in 2013/14 with the minimum increase by \$6.45 to \$197.85.

As yet Council has not separately resolved to specifically seek permission to increase the Minimum Rate by \$4.55 to \$202.40 however the increase, above the \$2 statutory figure, formed part of Council's application for a General Rate Special Rate Variation, submitted to IPART at the end of February 2014. A formal resolution is scheduled for 8 April 2014.

Council has advertised the proposal in the Gundagai Independent today inviting comment by 4:00pm Friday 4 April 2014, with a further advertisement being listed for 27 March 2014. Any comment received by Council will be taken into consideration by it when making the resolution. Council noted that in previous applications for increases above the \$2 statutory figure no such submission have been received.

## Criterion 2: Impact on ratepayers

The requested \$4.55 increase in the minimum over 2013/14 is considered to have an insignificant impact on ratepayers firstly in terms of its nominal nature and secondly in the context that it mirrors past practice.

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

Year	No Assessment		Revenue	
2010/11	581	56% Min	\$104,464	46.6% Min
	<u>456</u>	44% Ad val	<u>\$119,756</u>	53.4% Ad val
	<u>1037</u>		<u>\$224,220</u>	
2011/12	581	56% Min	\$107,368	46.6% Min
	<u>456</u>	44% Ad val	<u>\$123,118</u>	53.4% Ad val
	<u>1037</u>		<u>\$230,486</u>	

2012/13	636	61% Min	\$121,730	51.6% Min
	<u>408</u>	39% Ad val	<u>\$114,051</u>	48.4% Ad val
	<u>1044</u>		<u>\$235,781</u>	
2013/14	666	62% Min	\$131,768	52.8%
	<u>406</u>	38% Ad val	<u>\$117,574</u>	47.2%
	<u>1,072</u>		<u>\$249,342</u>	
2014/15	668	62% Min	\$135,203	52.8%
	408	38% Ad val	\$120,640	47.2%
	1,076		\$255,633	

The Division of Local Government recently raised the “50% of ratepayers issue” with Council in relation to the Ordinary Rate Residential sub-category where in 2010/11 the number of assessments subject to the minimum totalled 56%. In responding to this approach Council indicated, amongst other things, that the Local Government Act stipulates at S.500 the “base amount” shall not exceed 50% of the total levy however no reference to this position is made in the Act in respect of Minimum rates. Council mentioned it believes this may very well indicate that a conscious decision was made in respect of applying the 50% rule and as part of such it was argued the rule not apply to minimum rates per S.548. Council suggested given this it could well be argued that the Departments interpretation of the “50% rule” is somewhat liberal.

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

Finally, Council has adapted a hardship policy since submitting the 2013/14 application. A copy is provided for your purposes.

### Criterion 3: Consultation

As explained earlier the TID Fund has been in existence since 1924 and from that time till 2009/10 the rate levied in respect of the Fund was treated as an Ordinary Rate. This claim is supported by the fact that the resolutions (at least from 1993) specifically referred to it being an Ordinary Rate. Further, as part of the Management Plan process a draft containing details of rates, their minimums etc has been placed on display for public information at Councils office and in more recently on

Council's web site. No objections / submissions have been lodged with Council regarding the intended rating structures and related minimums, at least since the introduction of the 1993 Act.

As part of the process involved in seeking a General Rate Special Rate Variation, Council both invited public comment and also conducted two public forums. It was explained in the presentation by Council Staff at these forums that it is proposed the minimum rate will be increased over last year (2013/14) by the rate peg amount of 2.3%.

## Council resolution

A resolution seeking formal approval from IPART for 2014/15 will be forthcoming at the Council Ordinary Meeting of 8 April 2014. Notification of the adoption of the resolution will be immediately forwarded to IPART once agreed.

## Checklist of contents

Check that you have attached the following documents to your application.

Item	Included?
Hardship Policy	Yes
Consultation material	No*
Resolution to apply for the minimum rate increase	No*

\*As explained this material will be forwarded at the earliest opportunity.

## Certification

### **APPLICATION TO INCREASE MINIMUM RATES ABOVE THE STATUTORY LIMIT**

**Name of Council:** Gundagai Shire Council

**We certify that to the best of our knowledge the information provided in this application is correct and complete.**

**General Manager (name):** Mr Phillip McMurray

**Signature/date:**

**Responsible Accounting Officer (name):** Mr Paul Luff

**Signature/date:**

Once completed, please scan the signed certification and attach it as a public supporting document online via the Council Portal on our website.