|  |
| --- |
| Minimum rate increase above statutory limit Application Form – Part BFor 2016-17Issued January 2016 |
| **Gundagai Shire Council**Date Submitted to IPART: 11 March 2016Council Contact Phone: Paul LuffCouncil Contact Email: mail@gundagai.nsw.gov.au |

© Independent Pricing and Regulatory Tribunal of New South Wales 2016

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

The Tribunal members for this review are:

Dr Peter J Boxall AO, Chairman

Ms Catherine Jones

Mr Ed Willett

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

Dennis Mahoney (02) 9290 8494

Tony Camenzuli (02) 9113 7706

Independent Pricing and Regulatory Tribunal of New South Wales

PO Box K35, Haymarket Post Shop NSW 1240

Level 15, 2-24 Rawson Place, Sydney NSW 2000

T (02) 9290 8400 F (02) 9290 2061

[www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au/)

Contents

1 Introduction 1

When does a council need to make an application to increase minimum rates? 1

Completing the application form 2

Submitting your application 2

2 Criterion 1: Rationale for an increase in minimum rates 4

3 Criterion 2: Impact on ratepayers 6

4 Criterion 3: Consultation 7

5 Council resolution 7

6 Checklist of attachments 8

7 Certification 8

# Introduction

This form is to be completed by a council that is applying to introduce or increase minimum rates above the statutory limits under section 548 of the *Local Government Act 1993*.

IPART assesses each application against the criteria set out in the Office of Local Government (OLG) *Guidelines for the preparation of an application to increase minimum rates above the statutory limit for 2016/2017.* Councils should refer to these guidelines before completing this application form. The Guidelines are available on the OLG website at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

Councils intending to submit an application should have notified IPART by 11 December 2015 of their intention to apply to increase minimum rates.

**Any councils that did not notify but intend to apply to increase minimum rates for 2016-17 should contact us as soon as possible.**

This part of the application (Part B) must be completed in conjunction with *Minimum Rate Increase above Statutory Limit Application Form 2016-17 – Part A*.

As outlined in the OLG’s Guidelines, councils that are the subject of merger proposals will not be eligible for a minimum rate variation for the 2016-17 rating year.

When does a council need to make an application to increase minimum rates?

A council must apply for a minimum rate increase if the effect of increasing a minimum rate causes the minimum to exceed the statutory limit. The current statutory limit on the minimum amount that may be specified by a council when levying an ordinary rate is $497.[[1]](#footnote-1)

However, a separate minimum rate application is not necessary where a council applies for a special variation that results in a minimum rate exceeding the statutory limit. This also applies to a council that is proposing to increase its minimum rates by more than the proposed special variation percentage. In both of these cases, the council is to clearly address the minimum rate increase in its special variation application.

Otherwise, if a council is seeking to introduce a new minimum rate, or increase an existing minimum rate, above the statutory limit, a minimum rate application will need to be submitted to IPART for approval.[[2]](#footnote-2)

Councils making a special variation application are generally encouraged to apply the same percentage increase to minimum rates and general income, and maintain the same relative distribution of the rating burden between minimum and other ratepayers that was levied in the previous year. However, in some circumstances, it may be necessary for the council to apply a lower percentage increase to minimum rates than the requested increase in general income.

Completing the application form

To complete this Part B form, insert the council’s response in the boxes and the area which is highlighted, following each section or sub-section. The council may also submit supporting documents, including confidential ones, as attachments to the application. Supporting information should be relevant extracts of existing publications rather than full publications. Please provide details of how we can access the complete publication should this be necessary.

We may ask for additional information to assist us in making our assessment. If this is necessary, we will contact the nominated council officer.

This application form consists of:

* Section 2 – Criterion 1: Rationale for the proposed minimum rate increase
* Section 3 – Criterion 2: Impact on ratepayers
* Section 4 – Criterion 3: Consultation with the community
* Section 5 – Council resolution
* Section 6 – Checklist of attachments
* Section 7 - Certification.

It is the council’s responsibility to provide sufficient evidence to support its application. Where applicable, councils should refer to the relevant Integrated Planning and Reporting (IP&R) documents to demonstrate how the criteria of assessment have been met.[[3]](#footnote-3)

Submitting your application

First, you should register as an applicant council on the Council Portal on our website at <http://www.ipart.nsw.gov.au/Home/Industries/Local_Govt>. A [User Guide](http://www.ipart.nsw.gov.au/files/948b8fb1-2e6e-4647-b9d3-a10000a2552a/Local_Government_-_Council_Portal_User_Guide_-_November_2012.pdf) for the Portal is also on our website, to assist you in the registration and online submission process. If you experience difficulties please contact Himali Ranasinghe on (02) 9113 7710 or by email himali\_ranasinghe@ipart.nsw.gov.au

You are required to submit the application, via the Council Portal, by **cob Monday, 14 March 2016**. We encourage you to submit your application as early as possible.

File size limits apply on the Council Portal. The limit for the Part B application form is 10MB. The corresponding data limit for supporting documents is 50MB as is the limit for confidential documents (50MB). These file limits should be sufficient for your application. Please contact us if they are not.

We ask that councils also submit their application to us in hard copy (with a table of contents and appropriate cross referencing to supporting documents) to the following address by **cob Monday, 14 March 2016**:

**Local Government Team**
The Independent Pricing and Regulatory Tribunal
PO Box K35

Haymarket Post Shop NSW 1240

or

Level 15, 2-24 Rawson Place, Sydney NSW 2000.

We will post all applications (excluding confidential documents) on the IPART website. Confidential content may include part of a document that discloses the personal identity or other personal information pertaining to a member of the public or whole documents such as a council working document and/or a document that includes commercial-in-confidence content. Councils should ensure that documents provided to IPART are redacted so that they do not expose confidential content.

You should also make your application available to your community through your website.

# Criterion 1: Rationale for an 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 1993. IPART entertained a similar request for 2015/16 where it approved an application by Council for a minimum Town Improvement District Special Rate of $207.25.

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 few 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 & Rescue 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 and 2014/15 with the minimum increase by $4.55 to $202.40. Again this current year 2015/16, approval was given to increase by the rate peg (2.4%) bringing the TID special rate up to $207.25.

Council resolved at its Ordinary Meeting of 8 March 2016 to seek permission from IPART to apply a minimum Town Improvement District Special Rate of $210.95 for 2016/17. Prior to making this resolution Council had sought public submissions in relation to its proposal to seek an increase in the minimum rate however no submissions were received.

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

Council approached OLG expressing its concern in relation to the instruction of Circular 16-02, which announced Councils subject to a proposed merger not being eligible to apply for a minimum special rate above the statutory $2 amount. A verbal response was received from the OLG on 03/03/2016 (Laura Love) indicating it was never their intention to prevent affected Councils from submitting minimum special rate applications above the $2 level. OLG advised it would be speaking with IPART on this issue.

# Criterion 2: Impact on ratepayers

The requested $3.70 increase in the minimum over 2015/16 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*** | ***Number of Assessments*** | ***Revenue***  |
| 2010/11 | 581 | 56% minimum |  $ 104,464  | 46.6% minimum |
|  | 456 | 44% Ad val. |  $ 119,756  | 53.4% Ad val. |
|  | 1037 |  |  $ 224,220  |  |  |
|  |  |  |  |  |  |
| 2011/12 | 581 | 56% minimum |  $ 107,368  | 46.6% minimum |
|  | 456 | 44% Ad val. |  $ 123,118  | 53.4% Ad val. |
|  | 1037 |  |  $ 230,486  |  |  |
|  |  |  |  |  |  |
| 2012/13 | 636 | 61% minimum |  $ 121,730  | 51.6% minimum |
|  | 408 | 39% Ad val. |  $ 114,051  | 48.4% Ad val. |
|  | 1044 |  |  $ 235,781  |  |  |
|  |  |  |  |  |  |
| 2013/14 | 666 | 62% minimum |  $ 131,768  | 52.8% minimum |
|  | 406 | 38% Ad val. |  $ 117,574  | 47.2% Ad val. |
|  | 1072 |  |  $ 249,342  |  |  |
|  |  |  |  |  |  |
| 2014/15 | 668 | 62% minimum |  $ 135,203  | 52.8% minimum |
|  | 406 | 38% Ad val. |  $ 120,640  | 47.2% Ad val. |
|  | 1074 |  |  $ 255,843  |  |  |
|  |  |  |  |  |  |
| 2015/16 | 663 | 62% minimum |  $ 137,406  | 52.5% minimum |
|  | 409 | 38% Ad val. |  $ 123,934  | 47.5% Ad val. |
|  | 1072 |  |  $ 261,340  |  |  |
| 2016/17 | 666 | 62% minimum |  $ 140,493  | 52.6% minimum |
|  | 407 | 38% Ad val. |  $ 126,645  | 47.4% Ad val. |
|  | 1072 |  |  $ 267,138  |  |  |

The OLG has previously 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 then Division of Local Government he advised the Division is happy with the position provided Council believes the structure is fair and equitable.

Council also has an adopted hardship policy to support this application.

# 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.

The draft Operational Plan and related budget for 2016/17 are still under preparation, accordingly it is not possible to include the documents with this application.

Further, as advised previously, on this occasion Council did invite submissions from the public in respect of its intention to seek approval from IPART to increase the minimum TID Special Rate to $210.95 from $207.25.

Copies of the invitations listed in the Gundagai Independent (local newspaper) on 3 and 7 March 2016 are attached for your purposes.

# Council resolution

At its Ordinary Meeting of 8 March 2016 Council resolved to submit to IPART its application to apply for a minimum Special Rate for the Town Improvement District Fund for 2016/17 of $210.95. The Minutes of this Meeting are yet to be adopted by Council however a ‘draft’ of such has been provided for your purposes.

# Checklist of attachments

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

|  |  |
| --- | --- |
| Item | Included? |
| Part A Application form (Excel spreadsheet) | [ ]  |
| Part B Application form (Word) - this document | [ ]  |
| Extract of Delivery Program | [ ]  |
| Hardship Policy | [ ]  |
| Consultation material | [ ]  |
| Resolution to apply for the proposed minimum rate increase | [ ]  |
| Other supporting material | [ ]  |

Councils are responsible for ensuring that all relevant extracts or documents have been submitted with your application.

# Certification

The General Manager and the Responsible Accounting Officer are required to complete the following certification form (over).

APPLICATION TO INCREASE MINIMUM RATES ABOVE THE STATUTORY LIMIT

**Name of Council:**

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

**General Manager (name):**

**Signature/date:**

**Responsible Accounting Officer (name):**

**Signature/date:**

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

1. NSW Government *Gazette*, 27 February 2015 (2015 No 85). Based on an increase of 1.8%, in line with the rate peg, the statutory minimum rate is expected to rise to $506 effective 1 July 2016. [↑](#footnote-ref-1)
2. OLG, *Guidelines for the preparation of an application to increase minimum rates above the statutory limit 2016-2017*, p 4. [↑](#footnote-ref-2)
3. OLG *Guidelines for the preparation of an application to increase minimum rates above the statutory limit 2016/2017* p 7. [↑](#footnote-ref-3)