

# The Hills Shire Council Additional Special Variation

20 June 2022

## Our decision

The Hills Shire Council applied for a permanent Additional Special Variation (ASV) for a percentage increase in its general income of 2.5% in 2022-23. The rate peg for The Hills Shire Council in 2022-23 was set at 1.6%. The council budgeted for a 2022-23 increase of 2.5%.

We have assessed this application against the three criteria set by the Office of Local Government (OLG). We found that The Hills Shire Council's ASV application fully met all assessment criteria.



We have approved The Hills Shire Council's application for a permanent 2.5% Additional Special Variation in 2022-23 (including the rate peg). Our decision means the council can increase its general income by 2.5% in 2022-23 and permanently keep this additional income in its rate base.

Table 1 Approved ASV – The Hills Shire Council

	2022-23
Increase above the rate peg – permanent	0.9%
Rate peg	1.6%
Total increase	2.5%

Our decision means the council can increase income by 0.9% above the rate peg. We estimate this to be around \$0.73 million in additional income in 2022-23 which can keep in its rate base going forward. This allows the council an extra \$3.8 million over the next 5 years. The impact on rates from this ASV may be different for individual ratepayers and across different ratepayer categories. The ASV represents an allowed increase in general permissible income, the council decides how it collects that income from rate payers.

## The ASV process

On 6 April 2022 the OLG announced guidelines for the Additional Special Variations (ASV) process for 2022-23 under [circular 22-07](#) (ASV guidelines). IPART has assessed applications from NSW councils for an ASV against the ASV guidelines.

## The council planned for a 2.5% increase in income

**Assessment criterion 1:** *The application amount is not higher than the lesser of 2.5% or the council's assumed 2022-23 rate peg (including population factor) in its 2021-22 Integrated Planning and Reporting (IP&R) documentation.*

The Hills Shire Council's 2021-22 Long Term Financial Plan (LTFP) as part of its IP&R documentation budgeted a 2022-23 rate peg of 2.5% which matches The Hills Shire Council's ASV application for 2.5% in 2022-23.



The increase the council applied for matches the increase in income it budgeted in its planning documents.

## Council supports the proposed increase in income

**Assessment criterion 2:** *The council must have made a resolution which clearly states:*

- *that the council has resolved to apply for the special variation under section 508(2) of the Local Government Act 1993 (the Act)*
- *whether the resolution is for a temporary or permanent special variation under section 508(2) of the Act*
- *the additional income that council will receive if the special variation is approved, and*
- *why the special variation is required*
- *that the council has considered the impact on ratepayers and the community in 2022-23 and, if permanent, in future years if the special variation is approved and considers that it is reasonable.*

The Hills Shire Council resolved on 26 April 2022 to apply for a permanent special variation under section 508(2) of the Act. The council estimated it would receive around \$0.73 million of additional income in 2022-23.<sup>a</sup> The council stated that the special variation is required to ensure that The Hills Shire Council has long term financial sustainability. The council stated that it considered the impact on ratepayers to be reasonable.



The council resolved to apply to increase its income by 0.9% above the rate peg or by around \$0.73 million in 2022-23. It explained the reasons why the ASV is required, and the council considers the impact on ratepayers to be reasonable.

<sup>a</sup> The council has estimated the amount of additional income it can collect, and this estimate may be different to the actual amount collected.

## The council demonstrated financial need

**Assessment criterion 3:** *The council's 2021-22 IP&R documentation forecast an average Operating Performance Ratio (OPR) of 2.0% or lower over 2022-23 to 2026-27 or it has provided other evidence of need. For example, but not limited to that the council needs to maintain a higher OPR so it can meet its capital funding requirements.*

The OLG describes the OPR as measuring how well local councils contain expenses within revenue.<sup>b</sup> The OPR represents what portion of a council's revenue is remaining after expenses. A positive OPR represents a surplus in income and a negative OPR represents a shortfall in income.

The Hills Shire Council's 2021-22 LTFP forecast an average OPR of 2.4% over 2022-23 to 2026-27. This forecast is above the 2.0% threshold in the ASV guidelines.

Table 2 The Hills Shire Council's OPR – 2022-23 to 2026-27

	2022-23	2023-24	2024-25	2025-26	2026-27	5-year average
OPR	1.2%	2.8%	2.7%	2.4%	2.7%	2.4%

The Hills Shire Council has proposed an adjusted OPR for our assessment of financial need. We consider that it is reasonable to use an adjusted OPR for our assessment because the adjusted OPR reflects changes in costs since the initial forecasts were made in 2021-22.

In its application the council prepared an adjusted set of financial forecasts which show its financial position if it were to only increase rates by 1.6% in 2022-23 as allowed under its rate peg for 2022-23.<sup>c</sup> Using the adjusted financial forecasts, The Hills Shire Council forecasts an average OPR of 1.9% over 2022-23 to 2026-27. An average OPR at or below 2.0% over the next 5 years demonstrates financial need.

Table 3 The Hills Shire Council's Adjusted OPR – 2022-23 to 2026-27

	2022-23	2023-24	2024-25	2025-26	2026-27	5-year average
OPR	0.8%	2.4%	2.2%	2.0%	2.3%	1.9%

<sup>b</sup> NSW Auditor-General, *Report to Parliament | Report on Local Government 2018 | Appendix 9 – OLG's performance indicators from the audited financial statement – Descriptions*, February 2019, p 78.

<sup>c</sup> These updated forecasts and the council's proposal to consider an adjusted OPR are available on IPART's website [here](#).

The Hills Shire Council has identified at least \$1.9 billion worth of infrastructure it will need to deliver in the coming years. It receives developer contributions and grants to assist with funding these capital works. It noted that these funds will not support renewals of these assets after the capital works are completed. It went on to identify an additional \$194 million of roads, footpaths, open space and community centre expenses that are not connected to these developer contributions or grants. The council stated that as it navigates through this extensive infrastructure growth phase it is essential that it exercises a duty of care in maintaining financial sustainability.<sup>d,e</sup>

The council's assessment of the need for additional infrastructure is consistent with submissions we received which stated that the council needs to do more to upgrade and maintain its road infrastructure.<sup>f</sup> We have not assessed the merits of the council's capital works program or its proposed timing for delivery of the program. This assessment is outside the scope of our ASV assessment.

The ASV guidelines state that if a council's 2021-22 IP&R documentation forecast an average OPR over the next 5 years of 2.0% or lower, this demonstrates financial need. They also state that a council can provide alternative evidence of need. Citing the example of a council needing to maintain a higher OPR so that it can meet its capital funding requirements as an acceptable demonstration of need.

We consider that The Hills Shire Council has demonstrated the need to maintain a higher OPR in order to meet its capital funding requirements. It demonstrated that without the ASV its 5 year average OPR would fall below 2.0%. This indicates that without the ASV, the council would struggle to meet its capital commitments.

Some submissions were opposed to the ASV, noting that the council is in a strong financial position and that it could explore other avenues for revenue growth;<sup>g</sup> and that the council doesn't need the ASV to meet the challenges of growth and development. Several submissions consider that the council's recent acquisition of Castle Mall is evidence of this.<sup>h</sup> The council stated that:

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<sup>d</sup> Delivering and maintaining infrastructure is identified as a key theme in the council's delivery program, see: The Hills Shire Council, *Delivery Program 2021-2025*, pp 33-35.

<sup>e</sup> The council's application explaining why it needs to maintain a higher than 2.0% OPR to meet its capital funding requirements is available on IPART's website [here](#).

<sup>f</sup> M. Lau, Submission to The Hills Shire Council ASV application, 7 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 9 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 9 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 10 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 11 May 2022, p 1.

<sup>g</sup> M. Lau, Submission to The Hills Shire Council ASV application, 7 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 9 May 2022, p 1.  
B. Wong, Submission to The Hills Shire Council ASV application, 21 May 2022, p 1.

<sup>h</sup> Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
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Anonymous, Submission to The Hills Shire Council ASV application, 9 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 10 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 14 May 2022, p 1.  
B. Wong, Submission to The Hills Shire Council ASV application, 21 May 2022, p 1.

The purchase of Castle Mall, which was made possible from past investments, will help council provide more for the community as the population grows and the demand for services also increases. It is essential that council continues to look for revenue sources outside of rates and user charges to enhance our capacity to deliver for residents.<sup>i</sup>

The council considers that this purchase is an example of the council exploring other avenues of revenue growth.



The council's application shows that it needs to maintain a higher OPR so it can meet its capital funding requirements. This demonstrates a financial need for the additional income.

## Summary of submissions

We received 15 submissions about The Hills Shire Council's ASV application. Key themes from submissions were issues of affordability for ratepayers, concerns about the condition of council infrastructure, issues with poor historical council management and questions around the need for the ASV given the council's strong financial position.

Six submissions raised concerns about the impact of the council's ASV on ratepayer affordability. They raised issues with worsening ability to pay due to the impact of COVID-19 and the increasing costs of living occurring in 2022.<sup>j</sup> We note that in resolving to apply for this ASV the council did consider the impact on ratepayers and the community and considered that it was reasonable. It noted that the ASV increase is lower than expected inflation and that the community has a relatively high socio-economic index.<sup>k</sup>

Eight submissions opposed the ASV, noting concerns with the poor condition of the council's infrastructure, particularly roads, gutters and footpaths.<sup>l</sup> The council noted in its application that part of the reason to apply for the ASV is to ensure that it can properly maintain its asset base in line with community expectation.<sup>m</sup>

<sup>i</sup> The Hills Shire Council, *The Hills Shire Council makes strategic move to purchase Castle Mall*, 26 May 2022, accessed 1 June 2022 [here](#).

<sup>j</sup> Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1  
 Anonymous, Submission to The Hills Shire Council ASV application, 9 May 2022, p 1  
 Anonymous, Submission to The Hills Shire Council ASV application, 9 May 2022, p 1  
 Anonymous, Submission to The Hills Shire Council ASV application, 10 May 2022, p 1  
 Anonymous, Submission to The Hills Shire Council ASV application, 11 May 2022, p 1  
 Anonymous, Submission to The Hills Shire Council ASV application, 14 May 2022, p 1

<sup>k</sup> The Hills Shire Council, *Minutes of Ordinary meeting of council – 26 April 2022*, April 2022, p 141.

<sup>l</sup> M. Lau, Submission to The Hills Shire Council ASV application, 7 May 2022, p 1.  
 Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
 Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
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 Anonymous, Submission to The Hills Shire Council ASV application, 11 May 2022, p 1.

<sup>m</sup> The Hills Shire Council, *Minutes of Ordinary meeting of council – 26 April 2022*, April 2022, pp 140-141.

Five stakeholders raised concerns about the council's past performance. They questioned whether the additional funds would be utilised effectively and expressed a lack of confidence in the council's ability to deliver better outcomes for the community. Some of these stakeholders expressed concerns that the council's spending was not being applied to the correct priorities.<sup>n</sup> We have not assessed the merits of the council's capital works program or its proposed timing for delivery of the program. This assessment is outside the scope of our ASV assessment. We note that as a condition of being granted the ASV the council will be required to report on its financial performance against the projections in the LTFP that underpins this application. This will provide transparency for ratepayers on how the council has used the additional revenue from this ASV.

Five stakeholders disputed the need for the ASV, noting the strong financial position of the council.<sup>o</sup> In its application the council has acknowledged its strong financial position and compared that against its substantial capital funding requirements. It stated that it is exercising prudent financial management in maintaining financial sustainability for the foreseeable future. We also note that the ASV increase is consistent with the increase the council consulted on as part of its 2021-22 IP&R documentation.

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<sup>n</sup> Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1.  
Anonymous, Submission to The Hills Shire Council ASV application, 8 May 2022, p 1  
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