

CORP 04

Council approval to apply for an Additional Special Variation (ASV)

Strategic Direction	Leading through Collaboration Seek efficient and innovative methods to manage our resources
File Ref	093151.2022
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Approved By	Paul Perrett - Director Corporate Services

EXECUTIVE SUMMARY

This report seeks Council approval to apply for a one per cent permanent Additional Special Variation (ASV) from 2022-23 onwards under *Section 508(2) of the Local Government Act*.

On 7 March 2022, the Independent Pricing and Regulatory Tribunal (IPART) announced that councils can apply for an additional special variation due to the delayed local government elections and 2022-23 rate peg being lower than what councils had forecast in their 2021-22 long-term financial plans (LTFPs).

This one-off ASV is for councils that can demonstrate the need for a special rates variation to meet the obligations they set for 2022-23 in their 2021-22 Integrated Planning and Reporting (IP&R) documentation. The maximum council can apply for is 2.5 per cent. This is applicable to Liverpool City Council, as the LTFP factored in a two per cent increase and was only granted one per cent by the IPART. This has resulted in a \$1.13 million shortfall in Council's operational budget in 2022-23.

Council meets the ASV application criteria by demonstrating that it:

- will have a \$1.13 million shortfall in its 2022-23 operating budget (this estimate is based on a permissible yield of \$113.5 million and 77,639 rateable properties)
- budgeted for a two per cent rate peg in 2022-23 and following nine years
- publicly exhibited last year its Long-Term Financial Plan through its Integrated Planning and Reporting processes
- is unable to meet the increased cost of its services (for example the staff award increase effective from 1 July 2022 is two per cent).

If successful, Council intends to use the additional funds to maintain essential service delivery levels to the community.

Currently Council will be increasing its 2022-23 rates in accordance with the IPART determination of one per cent. Should Council apply for the ASV, the average impact on ratepayers would be an additional \$12 per residential property per annum. The impact on the average rural property would be an additional \$30 per annum.

RECOMMENDATION

That Council authorise the Acting Chief Executive Officer to submit an application to the Independent Pricing and Regulatory Tribunal for a permanent Additional Special Variation of one per cent, commencing in the 2022-23 financial year under Section 508(2) of the Local Government Act.

REPORT

When developing Council's Long Term Financial Plan, a two per cent rates increase was forecast in Council's operational budget. This was publicly exhibited last year as per Integrated Planning and Reporting requirements. However, the IPART only granted councils a one per cent increase, resulting in a \$1.13 million shortfall in Council's published approved budget.

As a result of the delayed council elections and the 2022-23 rate peg being lower than what councils have forecast, the NSW Government and the IPART introduced a one-off Additional Special Variation (ASV) round for the 2022-23 financial year. Through this scheme, the maximum council can apply for is 2.5 per cent (including a population factor⁴). However, Council's Long-Term Financial Plan anticipated only a two per cent increase, so this is the maximum that Council can apply for.

By applying to the IPART for an ASV of one per cent, Council will be able to address the shortfall in its approved operational budget and fund services in line with the increases projected through its LTFP.

⁴ The population factor is an increase introduced by the IPART in 2021-22 to allow councils, in particular growth councils, to maintain total per capita general income as their population increases and ensure that there is a linear relationship between population growth and council costs.

Financial impact on ratepayers

The financial impact of an additional one per cent increase on the average ratepayer is outlined in the table below.

Property Type	Average rates increase for 2022-23 as approved by IPART	Average impact of ASV	Average rates in 2022-23	Average rates due with ASV
Residential Properties	\$12	\$12	\$1212	\$1224
Rural Properties*	\$30	\$30	\$3030	\$3060

*Calculated on the average rural property rate of \$3000 per annum.

Additional Special Variation (ASV) application criteria

Council will need to address the following criteria when applying for the ASV:

ASV Criteria	How Council meets the criteria
Council has demonstrable financial need such that, in the absence of a special variation, council would not have sufficient funds to meet its obligations as identified in its 2021-22 LTFP as and when they fall due in 2022-23.	Council will have a \$1.13 million shortfall in its operating budget. This estimate is based on a permissible yield of \$113.5 million and 77,639 rateable properties.
Where councils are applying for a permanent special variation, in addition to the above criterion, the council has demonstrable financial need for the special variation to be retained in its rate base on an ongoing basis.	The LTFP budgeted for a two per cent rate increase for each of the ten years. Not receiving the additional one per cent will reduce Council's ability to improve its financial position.
Council's 2021-22 Integrated Planning and Reporting documentation budgeted for an income increase above the percentage specified for the council for 2022-23 under section 506 of the Act.	Council publicly exhibited its Long-Term Financial Plan through its Integrated Planning and Reporting processes, including a two percent rate increase each year.
Council has resolved to apply for the special variation under section 508(2) of the Act and that the resolution clearly states whether the resolution is for a temporary or	Subject to Council resolving to approve this Council paper.

permanent special variation under section 508(2) of the Act.

The amount of the additional income that council will receive if the special variation is approved.	\$1.13 million.
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Why the special variation is required.	<p>Council is unable to meet the increased cost of its services. For example, the staff award increased pay by two per cent effective from 1 July 2022.</p> <p>Council will use the additional funds to maintain essential service delivery levels to the community.</p>
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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 average impact on ratepayers would be an additional \$12 per residential property per annum. The impact on the average rural property would be an additional \$30 per annum.
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This one-off SRV round is available for the 2022-23 financial year only. Unlike the existing annual special rate variation process, councils will not be required to undertake a separate community consultation process to apply. Instead, the IPART will consider the consultation undertaken through Council's Integrated Planning and Reporting process and consider the Council resolution to apply. Applications for an ASV close on 29 April 2022 with decisions being made by June 2022.

It is therefore recommended that Council resolve to apply for a permanent Additional Special Variation of one per cent, commencing in the 2022-23 financial year under Section 508(2) of the Local Government Act.

FINANCIAL IMPLICATIONS

Should Council be successful in its application to the IPART for an ASV, the additional one per cent in income will address the \$1.13 million shortfall in Council's operational budget as outlined in the Long-Term Financial Plan.

Should Council resolve not to apply for an ASV or be unsuccessful in its application, there will be a \$1.13 million gap in its operational budget, resulting in either a decrease of Council's overall service delivery to the community, or reduced opportunity to improve its financial position.

CONSIDERATIONS

Economic	The financial considerations have been outlined in the body of the report.
Environment	There are no direct environmental and sustainability considerations.
Social	<p>It is not anticipated that a one per cent increase to the rates will result in financial hardship.</p> <p>In addition the funding will be used to maintain essential service delivery levels to the community and minimise the impact of a Consumer Price Index (CPI) increase on its services.</p>
Civic Leadership	Council has a responsibility to be a prudent and fiscal financial leader. By applying for an Additional Special Variation, Council is using the mechanisms available to address its budget deficit
Legislative	<p>Should Council choose to submit an application, it will be in line with <i>Section 508(2) of the Local Government Act</i> that stipulates:</p> <p><i>“The Minister may, by instrument in writing given to a council--</i></p> <p><i>(a) specify the percentage by which the council's general income or the amount of an annual charge for domestic waste management services, or both, for a specified year (being the year in which the instrument is given or a later year) may be varied, and</i></p> <p><i>(b) impose conditions with respect to the variation of that percentage”</i></p>
Risk	<p>The risk is deemed to be High.</p> <p>Should Council not submit an application for an ASV, it is at risk of either not maintaining its current level of services to the community or reducing its ability to improve its current financial position.</p>

ATTACHMENTS

1. Office of Local Government Circular - Guidelines for Additional Special Variation (ASV) Process for 2022-23

Office of
Local Government

Circular to Councils

Circular Details	22-03 / 7 March 2022 / A811946
Previous Circular	20-38 Special Rate Variation and Minimum Rate Variation Guideline and Process
Who should read this	Councillors / General Managers / Rating and Finance Staff
Contact	Policy Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Information

Subject**Guidelines for Additional Special Variation (ASV) Process for 2022-23****What's new or changing**

- The Independent Pricing and Regulatory Tribunal (IPART) will accept and process an additional round of 2022-23 Special Variation (ASV) applications from councils.
- For applications made under the ASV process, the ASV Guidelines set out in this circular apply in place of the [Guidelines for the preparation of an application for a special variation to general income](#) issued by the Office of Local Government in 2020.
- For more information on when these ASV Guidelines apply, please see 'What this will mean for your council' below.
- This one-off ASV round is available for the 2022-23 financial year only.
- This one-off ASV round is for councils that can demonstrate the need for a special variation to meet the obligations they set for 2022-23 in their 2021-22 Integrated Planning and Reporting (IP&R) documentation.
- Councils seeking a permanent special variation will also need to demonstrate the financial need for the special variation to be included in their rate base on an ongoing basis.
- Separately, IPART has also agreed to undertake a broader review of its rate peg methodology, including the Local Government Cost Index, with outcomes from the review expected to shape rate peg determinations in future years.

What this will mean for your council

- The ASV Guidelines set out in this Circular apply where council is applying for:
 - a temporary or permanent single year special variation for 2022-23 under section 508(2) of the *Local Government Act 1993* (the Act), AND
 - the percentage sought in the application is the lower of:
 - 2.5% (including population factor) or
 - the council's assumed 2022-23 rate peg as exhibited in its 2021-22 Long Term Financial Plan (LTFP) (including population factor)

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- For ASV applications made under the Guidelines set out in this Circular, councils will need to demonstrate that:
 - Council has demonstrable financial need such that, in the absence of a special variation, council would not have sufficient funds to meet its obligations as identified in its 2021-22 LTFP as and when they fall due in 2022-23; and
 - Where councils are applying for a permanent special variation, in addition to the above criterion, the council has demonstrable financial need for the special variation to be retained in its rate base on an ongoing basis; and
 - Council's 2021-22 IP&R documentation budgeted for an income increase above the percentage specified for the council for 2022-23 under section 506 of the Act; and
 - Council has resolved to apply for the special variation under section 508(2) of the Act and that the resolution clearly states:
 - whether the resolution is for a temporary or permanent special variation under section 508(2) of the Act; and
 - the additional income that council will receive if the special variation is approved; and
 - why the special variation is required; and
 - 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 ASV application process will be a simpler more targeted application process.
- IPART will not require councils to demonstrate community consultation outside of the processes outlined above. To demonstrate community consultation, IPART will consider the consultation undertaken through the IP&R process and consider the resolution to apply for a ASV meets the requirements outlined above.
- IPART will release streamlined application forms and further information shortly.
- Under this ASV round of applications:
 - IPART will accept applications until 29 April 2022;
 - IPART will publish applications to enable community consultation for a period of at least three weeks; and
 - IPART will notify councils of its decision no later than 21 June 2022.

Key points

- In late 2021, IPART announced the rate peg for the 2022-23 financial year was set at an increase of between 0.7% and 5.0%.
- Special variations provide an opportunity for councils to vary general income by an amount greater than the annual rate peg. However IPART's normal period for special variation applications in relation to the 2022-23 rate peg has now passed.
- The Office of Local Government and IPART recognise that, due to the delayed council elections and the determination of the 2022-23 rate peg at a lower rate than councils had forecast, councils may not have had sufficient time to prepare special variation application within the normal timeframe.

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This may result in some councils not having sufficient funds to pay for required infrastructure and services.

- As such the NSW Government and IPART have agreed to a one-off ASV round for the 2022-23 financial year only.
- This process is not intended to address applications from councils that require a special variation (above 2.5%) to achieve long term financial sustainability for reasons other than those set out in the criteria above, which should be addressed through the standard special variation process.
- Application forms, information papers, and submission details will be published shortly on [IPART's website](#).

Where to go for further information

- For further information please contact IPART on 02 9290 8400 or by email to ipart@ipart.nsw.gov.au.



Melanie Hawyes
Group Deputy Secretary, Crown Lands and Local Government