

Byron Shire Council Special Rate Variation 2017

**SUBMISSION AGAINST
SPECIAL RATE VARIATION
BYRON SHIRE COUNCIL
APPLICATION 2017**

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Submission Objecting to Byron Shire Council Special Rate Variation

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Summary

There has been demonstrated incompetence by Byron shire Council in maintaining its infrastructure for over 20 years.

The Community are against the Special Rate Variation and do not trust the Council to competently manage the extra funds raised by the rate increase.

The disparity of valuations across different towns in Byron Shire will result in a cumulative increase of \$1,318 per year for residences such as mine in Byron Bay if the Special Rate Variation is approved. Such massive rate rises are inequitable and not reasonable for family homes that are not used as holiday letting businesses.

Submission Recommendations

1. Before a Special Rate Variation is further considered, the causes of the current failing condition of Byron Shire infrastructure should be identified and control measures implemented to minimise the risk of it happening again. In this regard, an independent audit should be conducted into Council's infrastructure funding, management and maintenance processes over the past two decades, to identify the causes and provide recommendations to prevent reoccurrence. The audit should also identify the key asset classes and individual assets that should be the recipients of any Special Rate Variation funding.

2. If systemic political, management or Council cultural characterises are identified as the major causes of the infrastructure failures then the Minister for Local Government should be requested to:

Initiate an inquiry under section 438U of the Local Government Act 1993 to provide recommendations to the Minister for Local Government as to whether all civic offices at Byron Shire Council should be declared vacant. The Inquiry should have particular regard to:

(i) Whether the Council and its predecessors for the past 20 years have properly carried out their functions of asset management.

(ii) In view of the very poor condition of basic assets, particularly the Byron Shire sealed road network, extraordinarily high cost to restore asset condition to an acceptable and safe condition, and demonstrated lack of asset management competence by successive elected Councils, whether the current elected Council has the capacity to resolve the outstanding issues and establish a sound foundation for the future sustainability of the Council.

3. If IPART and the Minister are of a mind to approve the Byron Shire Special Rate Variation control measures should be implemented to ensure:

- Funds for infrastructure restoration are to be allocated to maintenance and restoration programs on a Pareto efficient basis that optimises benefits for the whole of each asset class. This allocation should be determined by an independent audit and quarantined for these purposes

- An embargo should be placed on any major capital works that are not part of the infrastructure restoration process until such time as Council meets all Fit for the Future indicators.
- Council's performance in acquitting the Special Rate Variation funds is to be monitored and verified by an independent audit and reported to the community and the Minister at the end of each financial year of the four year period
- If Council fails at any time to apply the Special Rate Variation funds in accordance with these conditions, the Minister should consider initiating an inquiry under section 438U of the Local Government Act 1993 to consider dismissal of the Council and replacement with administrators.

Submission

This submission is generally structured around the IPART "5.1 Criteria for special rate variation applications" 2017/18.

1. Establishing the need

- It is accepted there is a need for increased revenue to restore failing infrastructure, particularly the urban and rural sealed road network, however,
- The need has arisen due to a chronic inability of Byron Shire Council over several decades to manage its infrastructure management responsibilities and is demonstrated by
 - Council abandoning its road reseal program 20 years ago and diverting "saved funds" to other areas
 - Council embarking on ambitious capital expenditure projects that were clearly beyond its financial means. Examples are
 - construction of the new Council offices in Mullumbimby which only arose from the political decision to shift Council's headquarters from Byron Bay to Mullumbimby and
 - construction and ongoing operational liabilities of the Cavanbah Sports Centre
 - Funding these capital expenditures by stripping funds from infrastructure maintenance.
 - An inability at the political level, over the life of many elected Councils, to give due priority to infrastructure maintenance compared to populist environmental and social programs
 - An inability of Council to prioritise spending of limited infrastructure funds in a Pareto efficient manner ie to spend limited funds to achieve the maximum benefit to the whole infrastructure network. A recent example of this behaviour is the allocation of several million dollars to the reconstruction to an excessively high standard of a short section of Massinger Street in Byron Bay. These funds would have been more effectively spent on resealing over 5 km of Byron Bay's failing residential streets. Council has demonstrated it is swayed to prioritise more glamorous ribbon cutting projects over the less glamorous road maintenance programs that are needed to salvage failing infrastructure.

A number of Council documents including the Council Improvement Proposal suggest the causes of the failing infrastructure include:

- inadequate resourcing for asset management
- legacy issues of poor asset construction in the 1960s - 80s period
- inadequate/discriminatory grant funding
- impact of tourists on infrastructure etc

These factors are not unique to Byron Shire. Surrounding coastal shires all have these problems, yet none of these other Councils have infrastructure issues, particularly sealed road failure, like Byron Shire. All these other Councils have also continued with road resealing programs.

The problem is not caused by infrastructure legacy issues, discriminatory grant funding or excessive tourist visitations; I believe the problem has been caused almost entirely by the actions of a series of Byron Shire elected Councils over the last 20 years, in diverting funds

away from basic infrastructure maintenance into pet social, environmental and big ticket, largely unnecessary, capital projects.

In the past 14 years Council has already had the following special rate variations above the pegging cap.

Year	Special Variation No.	Rate rise above Rate Pegging Cap
2002/2003	1	5.51%
2003/2004	2	9.94%
2004/2005	3	9.96%
2005/2006	4	6.0%
2006/2007	5	4.02%
2007/2008	6	5.0%
2008/2009	7	6.22%

In spite of these significant rate rises, Council has still failed to adequately fund infrastructure maintenance.

I have been a resident of Byron Bay since the end of 1993 and currently reside at [REDACTED]. I am a professional local government engineer and been employed in this capacity by a number of councils throughout NSW since 1969. I have been appalled by the systemic neglect by Byron Shire Council of its responsibilities for maintaining its basic sealed road infrastructure in the period I have been a shire resident. I understand that [REDACTED] where I live was constructed as a bitumen chip sealed street around 1973 and it has never been resealed. Its surface condition is of course very poor with widespread cracking and stone stripping and the appearance of potholes after rain is accelerating. Surprisingly the underlying pavement is still relatively sound and the street could still be salvaged with a timely reseat. I have requested Byron Shire Council on a number of occasions to reseat the street, however they have not responded positively. I have even offered to pay fully for the cost of the reseat in front of my land, but this seemed too difficult administratively for Council to deal with. Unfortunately [REDACTED] is only one of many residential streets in Byron Shire Towns that is in this condition. Council seems unable culturally to admit its past errors and instigate a meaningful reseat program. As a result seal failures are escalating, pothole patching costs are accelerating and it is like pouring money down a black hole. At this stage the conclusion will be that most of our residential streets are likely to revert to a gravel surface.

It is due to my frustration with Byron shire Council over the past two decades that I make this submission opposing their application for a Special Rate Variation for the 2017-20 period. Whilst I agree that additional infrastructure funding is necessary, I do not trust Byron Shire Council to do the job.

2. Community Engagement

The information provided to the community on the proposed rate rise was not objective. Rather than being merely informative, Council's materials were a form of advocacy for the rate rise. The base case of no SRV was often omitted from the material and some survey questions only asked for preferences on the three rate rise options, neglecting the no rise base case.

This bias was further reflected in the report by Council staff on the outcomes of the public engagement strategy and in the accompanying report by consultants Micromex.

Despite the majority of submissions from the public being against any special rate variation, this outcome was played down by both the Council staff report and the Micromex report.

It is understood that Micromex's origins are in market research. Perhaps the form of push polling that advocates a particular product has some validity in the private sector. I believe however that it is inappropriate as a means of informing Byron Shire Residents regarding the special rate variation and even more inappropriate in gauging the community's response to the proposal.

There was little analytical commentary in either the Council staff report or Micromex report on the reasons and comments given by the public for opposing the special rate variation. The overwhelming sentiment was a total lack of trust in the Council to spend the extra funds wisely and deliver the promised infrastructure improvements. This sentiment is of course based on Byron Council's past performance. It is difficult to trust the body who caused the problem to then change to be the saviour that fixes the problem.

It can be argued that it is past Councils that have caused the infrastructure problem and that the present Council and management team are different. However current infrastructure management practices of continuing to not provide any significant funding for preventative maintenance (such as bitumen road reseals), pursuing big ticket capital expenditure programs such as the Byron Bay Town Centre Master Plan and gross over expenditure on Massinger Street reconstruction, suggest it is business as usual and nothing has changed.

It has been speculated that the continuing failure of Byron Shire Council to responsibly address infrastructure management is due to the unique demographic and socio-economic mix of Byron shire. The Shire has had a very combative political scene originating in the 70s and 80s with a tussle between pro-development and environmental/eco/lifestyle factions. It seems that the continuing adversary between these factions over several decades has blinded Council to more pressing infrastructure issues and enabled essential maintenance funds to be continually siphoned off into more populist programs.

Regardless of the cause, I believe the Council remains untrusted by the community and unfit to acquit the funding provided by a Special Rate Variation.

3. The Impact Must be Reasonable

I believe the impact of the proposed rate rise is not reasonable. Council's application conveniently identifies the impact on the "average" ratepayer who pays \$1,139 per year. This however is quite misleading as there is an extremely unequal distribution of property valuations and hence rating levels in Byron Shire. In my town of Byron Bay, the valuation of normal residential property has been driven up by the speculation of absentee owners who have bid up the price of Byron Bay land for the purpose of establishing holiday rental businesses. This has had a double adverse impact on genuine resident's of the town. Not only is the residential cohesion and amenity of the town damaged by holiday letting, it also

has the impact of causing Byron Bay residents to be rated disproportionately high compared to the rest of the Shire. The impact on an "average" ratepayer may be a cumulative 33.5% or \$335, however the impact on residential properties in Byron Bay such as mine which now pay a general rate of \$3,936 per year is a massive increase of \$1,318 per year. I do not believe that rate rises of this magnitude for residential homes are reasonable.

4. The Relevant IP&R Documents Must be Exhibited and Adopted

It is presumed that this process has been followed.

5. Productivity Improvements and Cost Containment Strategies

Council's application outlines a number of commendable strategies in this regard which deal with the Council's efficiency.

6. Recommendations of this Submission

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