


SUBMISSION: ADDITIONAL SPECIAL (RATE) VARIATION FOR 2022/23 - SNOWY MONARO REGIONAL COUNCIL




I wish to lodge a submission objecting to the Additional Special Rate Variation (ASV) application by Snowy Monaro Regional Council (SMRC) for a permanent ASV of 2.3% from FY 2022/23. The reasons for my objection are as follows.

2. IPART is an independent body established under the *Independent Pricing and Regulatory Tribunal Act 1992*. Sections 7 and 13 of the Act allow the responsible Minister certain powers to direct the Tribunal. Notwithstanding this, the independence of IPART is fundamental to the broad NSW community's and local government area communities' confidence that IPART is independent and fulfils its core responsibilities to protect consumers from unreasonable price increases. Approving an ASV for 2022/23 for SMRC (and other Councils) will call into question IPART's independence and its role to protect consumers from unreasonable price increases.

The ASV for 2022/23 and The Risk to the Independence and Role of IPART

3. IPART completed its annual review of the annual rate increase peg for FY 2022/23 for all Councils in December 2021. IPART's review and decision were based a new rate peg methodology which added an additional factor of population growth to the rate peg methodology that IPART had followed since 2010.

4. The annual review concluded that the annual rate increase peg for Snowy Monaro Regional Council for 2022/23 should be 0.8%. In announcing the 2022/23 rate peg for all councils, IPART Chair  said that in setting the rate peg for 2022/23,

"We have developed a way of incorporating population growth into the rate peg that balances the need to ensure councils are financially sustainable, while protecting ratepayers from excessive rate rises."

5. The methodology being applied by IPART to the ASV for FY 2022/23 is different to the rigorous methodology applied by IPART to past annual rate peg reviews and Special Rate Variations. I understand IPART has also once again be asked by the Government to review the methodology for the annual rate peg as a result of the outcome of the annual rate peg review for local government for 2022/23.

6. In the local government community's mind, changes to the methodology that IPART applies to reviews of local government annual rates call into question the past methodology for annual and special rate reviews, the new methodology adopted by IPART for the 2022/23 annual rate peg review, and for future rate review methodologies and processes followed by IPART.

2.

7. Allowing Council's, including SMRC, to apply for an ASV for FY2022/23 (a permanent increase in the case of SMRC) in addition to the December 2021 determined annual rate peg undermines further IPART's annual rate peg review process, methodology and findings, and the NSW community's, including the business community's, confidence in IPART's independent price reviewing and setting role. In particular, the ASV process risks public confidence in the Local Government Cost Index (LGCI) that is fundamental to the methodology and review process for annual rate pegs and SRVs.

- questioning of the LGCI presents risks to the public confidence in the annual rate peg methodology and confidence in broader NSW economy-wide price rise reviews undertaken by IPART, on behalf of the NSW Government.

8. More broadly, allowing Council's, including SMRC, to apply for an ASV severely undermines the broader NSW community's confidence in IPART's independence, in relation to past and future annual rate peg reviews. It will also have a negative evidentiary impact on the confidence of ratepayers across New South Wales regarding past and future Special Rate Variation (SRV) applications from local councils and approved by IPART.

9. And finally, the ASV process and its truncated and untested methodology is likely to impact negatively on the NSW community's, including the NSW business community's, perception and confidence in IPART generally. This risks undermining public confidence in IPART as the NSW independent pricing regulator for water, energy, public transport and local government, the NSW licence administrator for water, electricity and gas and the scheme administrator and regulator of the NSW Energy Savings Scheme, and other reviews undertaken .

10. The NSW Minister responsible for IPART and the NSW Government would have been wise to protect the independence of IPART and the integrity of and trust in IPART as the pricing regulator in the above-mentioned economic and business sectors in NSW and in other investigations in a wide range of economic and policy issues, undertaken by IPART on behalf of the NSW Government. In particular, it would have been prudent to ensure that IPART's price review and regulatory functions, including the methodologies for reviewing and approving annual local government rate increase and special rate increases, were not opened to community questioning through the ASV for 2022/23 process. To this end, it would have been prudent to keep IPART at arms length in the ASV application and approval process.

11. The NSW Minister responsible for IPART and the NSW Government would have been wise to have charged the NSW Office of Local Government with responsibility to manage the ASV process. OLG could have sought IPART's expert advice during the assessment of ASV applications. This would have avoided any doubt about the role of IPART, its independence and the robustness of the methodologies employed by IPART for the annual rate peg review and SRV applications, and IPART's broader pricing regulator and administrator roles.

12. It would also have been wise to allow the new rate peg methodology for local government, which includes a new population factor adopted for FY 2022/23 and onwards, to bed down and have its impact understood and accepted by ratepayers and local Councils before adopting an additional rate variation process for 2022/23 for local government across NSW.

3.

Snowy Monaro Regional Council's ASV Application

13. SMRC's ASV application notes that it is seeking a permanent ASV of 2.3% from 2022/23. The Minutes from the Council meeting adopting the recommendation to lodge an ASV application provides the reasons for the permanent ASV and documentation supporting the application (see Council Minutes for the 21 April 2022 ordinary meeting at <https://www.snowymonaro.nsw.gov.au/files/assets/public/council/meetings/documents/2022/v2-21-april-2022-ordinary-council-meeting-unconfirmed-open-minutes.pdf> - provided with SMRC's application). The reasons for the permanent ASV given by Council in its Minutes and application are to fund:

- a) The costs of the planned new library service to be introduced at Jindabyne in the 2022/23 year, and;
- b) The ongoing costs of providing required infrastructure and services as planned in the current delivery and long term financial plans (see Resolution 105/22, p17 in Council Minutes of 21 April 2022)

14. SMRC's Resourcing Strategy 2018-2028 includes Council's Long Term Financial Plan (LTFP). The LTFP includes financial modelling with the aim "to break-even and maintain existing service levels". The Plan models 3 scenarios one of which is a Base Case 2.3% Rate Peg funding 50% of the General Fund Capital Works Program 2020-2028. SMRC has submitted its LTFP and the 2.3% base case scenario in support of its ASV application.

15. Neither SMRC's LTFP or the accompanying IP&R documents for the respective period include provisions to fund the operation of a planned new library service in Jindabyne - the "Jindabyne Community and Innovation Hub" (the Hub). As stated in the previous paragraph, the 2.3% base case scenario is aimed at maintaining existing services levels. At the time that the current LTFP and IP&R documents were developed, Jindabyne did not have a library nor was one envisaged or funding identified in Council's Operational Plan in order to build and operate a library in Jindabyne.

- funding to build the Jindabyne Library was provided by the NSW Government in 2018/19 through the Regional Cultural Fund administered by Create NSW (<https://www.create.nsw.gov.au/wp-content/uploads/2019/02/Create-NSW-Regional-Cultural-Fund-Round-Two-recipients.pdf>)
- the Development Application for the Hub was approved by Council by Resolution at its Ordinary Meeting on 17 February 2022.
(see <https://www.snowymonaro.nsw.gov.au/files/assets/public/council/meetings/documents/2022/17-02-2022-ordinary-council-meeting-confirmed-open-minutes.pdf>, p6.)

16. Furthermore, Council's actions regarding funding the operation of the new Hub is clear from the following statement in the Business Papers for the 21 April 2022 Ordinary Meeting of SMRC which notes:

"When deciding to establish a library service in Jindabyne the Council at the time knew there would be a need for additional funding but did not identify where this would come from. That funding has to be provided in the 2022/23 year. Provision of new service requires new funding, which would be expected to come from rates. The increase from the 0.8% to 2.3% provides \$262,000 in additional income, which would provide for the running costs of the new service."

A Permanent Increase for a Temporary Local Government Service

17. I understand, based on Council advice, that the funding agreement for the Jindabyne Community Library and Innovation Hub noted that the library was only to be a temporary structure for 5 years, and subject to review thereafter. Council's ASV application is for a permanent special variation of 2.3% for a temporary service.

18. The 2.3% increase in income through rates sought by Council is estimated by Council to generate an additional \$262,000.00 in revenue. The Business Papers for Council's Ordinary Meeting on 21 April 2022 also noted that ongoing operating costs for Jindabyne library amounted to \$150,000.00 (p 598) (57 per cent of the income generated through the 2.3% ASV application).

19. IPART's ASV guidelines note that, "Where a council is applying for a permanent special variation, in addition to providing the above information, the council must demonstrate that it has, in its 2021-22 IP&R documentation, forecast an average Operating Performance Ratio (OPR) of 2% or lower over 2022-23 to 2026-27.

20. I have been unable to establish in the documents submitted by Council in support of its ASV applications that Council demonstrated an average Operating Performance Ratio (OPR) of 2% or lower over 2022-23 to 2026-27 in its 2021-22 IP&R documentation. Nor has SMRC, in its ASV application for a permanent ASV, provided evidence of need or demonstrated that the 2% OPR benchmark is too low for council's circumstances.

Impact on Ratepayers and the Community

21. Has council has considered the impact on ratepayers and the community in 2022-23 and, if permanent, in future years if the special variation s approved, and considers that it is reasonable?

22. No, Council did not. The webcast of the ordinary Council of 21 April 2022 when Council resolved (Resolution 105/22) to apply for a special variation did not record that Council considered the impact on ratepayers and the community in 2022-23, and, if permanent, in future years. Also there was no discussion on whether Council considered that the impact on ratepayers and the community was reasonable (see weblink to April Ordinary Meeting of Council: <http://webcast.snowymonaro.nsw.gov.au/archive/video22-0421.php>).

23. In conclusion, SMRC's application does not meet key elements of IPART's Information Paper to Local Government dated 7 April 2022 which outlines the process for applying for an Additional Special Variation (ASV) for 2022-23. The omissions are described above. The application also fails to provide the information that IPART requires to process council's application, based on the NSW Office of Local Government's updated ASV Guidelines (Circular 22-07).

A Comprehensive Review of SMRC's Financial Operations under the NSW Local Government Act 1993

24. On 7 April 2022, I wrote to the [REDACTED] drawing her attention to the parlous state of SMRC's operating budget position. SMRC concluded the 2021/22 financial year with a \$24 million operating budget (up from negative \$4.7 million the previous financial year). Some of that increase is a result of a \$11 million liability for land remediation costs included in the 2020/21 financial statement by the NSW Auditor-General.

5.

25. I asked the Minister to undertake a comprehensive review of SMRC's financial operations under the NSW *Local Government Act 1993* to establish the cause of Council's long-term, increasing annual operating budget deficits. An ASV should not be approved for SMRC until the Minister undertakes and completes such a review. A permanent 2.3% ASV which generates an additional increase in revenue of \$262,000 in 2022/23 will not address Council's fundamental ongoing operating budget deficits and unsatisfactory financial and accounting practices.

26. To the contrary, a small increase of \$262,000 to SMRC's rates income will only reinforce the past unsatisfactory accounting practices and budgetary overspending by Council, rather than encourage Council to address key issues which have resulted in its practices and operating deficits. As parents know well, giving small sweets ("an ASV") to a child for poor performance, only reinforces that poor performance.

In Conclusion

27. I conclude my submission by quoting from the IPART website:

"We are a NSW government agency, but decisions and advice from our reviews are independent of the government."

28. This should be strongly protected and promoted if IPART is to retain public confidence, including the confidence of NSW ratepayers and the general NSW business community in IPART's independence and important role to help NSW residents get safe and reliable services at a fair price. The ASV for 2022/23 and the application by Snowy Monaro Regional Council for an ASV in 2022/23 presents real risks to that confidence.

29. The ASV for 2022/23 process, and the application from Snowy Monaro Regional Council and its unjustified supporting reasons and inadequate documentation for an ASV, also risks reputational damage to IPART. More generally, the ASV process and any approvals risk broader damage to IPART's reputation as the NSW independent pricing regulator for water, energy and public transport, the NSW licence administrator of water, electricity and gas, and as the scheme administrator and regulator of the NSW Energy Savings Scheme.

30. The SMRC application for an ASV for 2022/23 should not be approved for the reasons outlined in my submission. It is important that the ASV for 2022/23 process and SMRC's application not inadvertently diminish community confidence in IPART as an independent pricing regulatory in NSW. This is especially critical now when the confidence of NSW ratepayers and the business community in Government accountability and transparency, across all levels of Government, is under significant challenge.

31. Thank you for the opportunity to provide submissions regarding the permanent 2.3% ASV application lodged with IPART by my Council - Snowy Monaro Regional Council.

32. I have included my letter to the Minister mentioned in paragraphs 23-24 above in a separate submission to IPART on SMRC's ASV application.

19 May 2022