

Author name: Name suppressed

Date of submission: Monday, 23 May 2022

Your submission for this review:

Dear IPART, Attached is a second submission on the application by Snowy Monaro Regional Council for a permanent ASV for 2022/23 of 2.3%. Please do not publish my name, address or email. Also, please do not publish the text of my letter of 7 April 2022 and follow-up email of 10 May 2022 to the [REDACTED], NSW Minister for Local Government included in my submission. Respectfully and Thank You.

# **A POSSIBLE WAY FORWARD**

**ADDITIONAL SPECIAL VARIATION (ASV) FOR 2022/23**

**SNOWY MONARO REGIONAL COUNCIL (SMRC)**

**SUBMISSION TWO**



**(A PERMANENT ASV FOR TEMPORARY LOCAL GOVERNMENT SERVICES, RISKS TO IPART, RISKS TO IPART'S ANNUAL RATE PEG METHODOLOGY, LETTERS TO NSW MINISTER FOR LOCAL GOVERNMENT SEEKING REVIEW OF SMRC FINANCIAL PRACTICES, DRAFT SMRC INTEGRATED PLANNING & REVIEW (IP&R) FRAMEWORK 2022-2032)**



*Snowy Monaro Region Farmland, Michelago NSW*

## Summary of Key Points

- This is my second submission to IPART relating to the application submitted by the Snowy Monaro Regional Council (SMRC) to IPART for a permanent Additional Special (Rate) Variation (ASV) for 2022/23 of 2.3%.
- This submission recommends a possible way forward for IPART to approve a *temporary* ASV for 2022-23 for SMRC which address the issues raised in my 2 submissions to IPART.
- In December 2021 IPART approved an annual rate peg increase of 0.8% for Snowy Monaro Regional Council for 2022/23;
  - the rate peg reflected new annual rate peg methodology 2022/23 and onwards, which included a new factor to account for population growth in local government areas.
- The ASV for 2022/23 process risks reputational damage to IPART as the NSW independent pricing regulator for local government, water, energy and public transport, licence administrator, scheme administrator and regulator of schemes on behalf of the NSW Government.
- The ASV for 2022/23 presents substantial risks to IPART's annual rate peg methodology and the Local Government Cost Index (LGCI);
  - the LGCI is central to the to the validity of IPART's annual rate peg methodology.
- SMRC's application for an ASV for 2023/23 is seeking a permanent variation to fund a temporary service (the "Jindabyne Community and Innovation Hub) funded by the NSW Government for 5 years from 2022/23 (see the National Tribune of 3 November 2021 at: <https://www.nationaltribune.com.au/new-jindabyne-library-and-innovation-hub-project-underway/>).
- The Snowy Monaro community is calling on the Minister for Local Government to urgently investigate whether SMRC is "Fit For the Future" and can continue to be a going concern;
  - and also investigate whether SMRC has abided by the NSW Office of Local Government's Code of Accounting Practice and Financial Reporting, and associated policies.
- SMRC is currently seeking community comments on Council's draft Suite of Integrated Planning and Reporting documents (IP&R Framework) for the next 10 years (2022 to 2032);
  - community comments are due by 6 June 2022.
- The draft IP&R framework includes 4 financial scenarios to address Council's long-term negative operating budgetary position with the aim of bringing Council's operating budget deficit back into balance over time;
  - the 4 scenarios are contained in the draft Long Term Financial Plan 2022-2032 (10-year forecast) and involve proposed annual land rate increase from FY 2023/24 to FY

2031/32 of between 2.3% and 9.347% for eight years (a one-off 18.4% increase is also considered in the scenarios);

3.

- none of the 4 scenarios have been endorsed by the Snowy Monaro community or Council.

### **IPART's Annual Rate Peg Review 2022/23**

2. IPART's annual review of the rate increase peg for all Councils, concluded in December 2021, approved an annual rate peg increase of 0.8% for Snowy Monaro Regional Council for 2022/23.
3. The rate peg reflected new IPART methodology introduced to assess annual rate peg increases from 2022/23 and onwards, and included a new additional factor to account for population growth in local government areas.
4. My other submission argued that the agreement by IPART to allow Councils to apply for ASV for 2022/23 on top of the original approved annual rate peg risked undermining the community's confidence in IPART as an independent price regulator in NSW for local government, and more broadly as an independent price regulator for water, energy, public transport. It also threatened the community's confidence in IPART as the NSW licence administrator of water, electricity and gas, and the scheme administrator and regulator of the Energy Savings Scheme.
5. My other submission also argued that because the Guidelines for the ASV for 2022/23 adopt a different methodology to assess applications from Council, this threatened community confidence in the methodology used by IPART to assess the annual rate peg increase for income received by Councils from local rates.
6. Specifically, it threatens the validity of the Local Government Cost Indicator (LGCI) that is a centrepiece of the methodology used by to assess the approved annual rate peg.

### **SMRC's Application for an ASV for 2022/23 - A Permanent ASV for 2022-23 for a Temporary Service**

7. SMRC's ASV application is seeking a *permanent* ASV for 2022/23 of 2.3% under S508 (2) of the NSW *Local Government Act 1993*. As noted in Council's application this is to fund the:
  - a) costs of the planned new library service to be introduced at Jindabyne in 2022/23, and;
  - b) ongoing costs of providing required infrastructure and services as planned in the current delivery and long term financial plans.
8. My other submission noted that Council's application for a permanent 2.3% ASV for 2022/23 was mainly to fund the ongoing operation of the planned new library service at Jindabyne to be established in 2022/23. Funding for that service and library has only been approved by the NSW Government as a temporary facility for 5 years.<sup>1</sup>
9. The NSW Government funded the "Jindabyne Information and Education Facility - Community Library and Innovation Hub" through the NSW Regional Cultural Fund. The funding was provided for a modular library that would remain on-site for at least five years. After this time, it could be moved and repurposed dependent on the newly designed civic area under the NSW Government's

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<sup>1</sup> Full details are in the Business Papers for SMRC's Monthly Council Meetings on 17 December 2020 (pp 82-93) and on 17 February 2022 (pp 51-80) @ <https://www.snowymonaro.nsw.gov.au/Council/Meetings>.

Snowy Mountains Special Activation Precinct (SM SAP) (see "About Regional" 4 February 2019 at: <https://aboutregional.com.au/payday-for-projects-from-cooma-to-berridale-to-jindabyne/>)

#### 4.

10. My other submission also argued that Council had NOT identified in its 2021-22 IP&R documentation that the Council had forecast an average Operating Performance Ratio (OPR) of 2% or lower over the next 5 years. Nor did it show evidence of need, such as, that the council needed to maintain a higher OPR so it could meet its capital funding requirements;

- this is required by the NSW Office of Local Government's "Guidelines for Additional Special Variation (ASV) Process for 2022-23" (Circular 22-07)) to support an ASV application.

#### **COMMUNITY CALLS FOR AN INVESTIGATION INTO WHETHER SMRC IS "FIT FOR THE FUTURE" AND CAN CONTINUE TO BE A GOING CONCERN - LETTERS TO THE HON. [REDACTED] MP, MINISTER FOR LOCAL GOVERNMENT**

11. This submission provides a copy of my letter of 7 April 2022 and follow-up email letter of 10 May to the Hon. [REDACTED] MP, Minister for Local Government drawing her attention to the unsatisfactory budget operating position of Snowy Monaro Regional Council. Council's operating budget for 2020-21 resulted in a net deficit of \$24 million. This was up from a net operating budget deficit of \$2.29 million in 2016-17 (post amalgamation) and a net deficit of \$4.74 million in 2019/20.

12. My letter to the Minister asked that she urgently investigate whether SMRC is "Fit For the Future" and can continue to be a going concern. Moreover, I ask her that she investigate whether SMRC has abided by the NSW Office of Local Government's Code of Accounting Practice and Financial Reporting, and associated policies.

13. I also noted that an ASV for 2022/23 should not be approved for SMRC until the Minister's review had been completed.

#### **SMRC Suite of Integrated Planning and Reporting Documents (IP&R Framework) - 2022 to 2032**

14. SMRC has its suite of Integrated Planning and Reporting (IP&R) documents on public exhibition until 6 June 2022 and is seeking community input on the documents. This includes: the draft 2022-2026 Delivery Program (four-year plan); the draft 2022-2023 Operational Plan (one year plan and budget); the draft Long Term Financial Plan (LTFP) 2022-2032 (10-year forecast); the draft Revenue Policy 2022-2023, and the draft Fees and Charges (services and facilities) (see <https://yoursaysnowymonaro.com.au/draft-smrc-ipr-documentation-2023>).

15. The suite of IPR documents sets out the priorities, direction and levels of service that the Snowy Monaro community expects over the lifespan of the documents. They also set out how Council will fund the delivery of the levels of service that the community expects.

16. The draft IP&R suite of documents highlight that SMRC has an ongoing and increasing operating budget problem. Council has outlined how it proposes to address this over the long term in the draft Draft Long Term Financial Plan (LTFP) for 2022-2032 included in the draft IP&R suite of documents. The key aim of the LTFP is to bring Council's operating budget deficit back into balance over time.

## 5.

17. The draft LTFP includes projected income and expenditure and cash flow statements for the ten years to 2031/32. To this end, Council has included four (4) financial scenarios in the draft LTFP to partially address its operating budget deficits. Council is seeking community comments on the 4 scenarios and plans to finalise its IP&R framework for 2022-2042 (20 years) by 30 June 2022. The 4 scenarios are:

- 1) an annual land rate increase from FY 2023/24 to FY 2031/32 in line with the annual IPART approved rate peg;
- 2) an annual land rate increase from FY 2023/24 to FY 2031/32 of 9.347% each year;
- 3) a one off land rate increase of 18.4% in FY 2023/24, followed by annual rate increases in line with the approved IPART annual rate peg, and;
- 4) a 5% special rate increase each year over the 8 year period commencing in FY 2023/24.

### A Possible Way Forward

18. As noted in my submissions, the ASV for 202/23 process presents a real risk to the community's confidence in IPART's independence and as the NSW Government's price regulator for local government, water, energy and public transport, the NSW licence administrator of water, electricity and gas, and the scheme administrator and regulator of the Energy Savings Scheme

19. The Tribunal, after giving due consideration to the risk presented by the ASV for 2022/23 process to the community's views of IPART's independence and the NSW Government's price regulator, may conclude that the risks are manageable and may not have a long-term impact on IPART's independence and regulatory roles.

20. However, should the Tribunal grant SMRC a permanent ASV of 2.3% to fund a temporary service, in addition to having based its decision on inadequate information provided by SMRC in support of its application would, I believe, risk severely calling into question the community's confidence in IPART as the NSW independent pricing regulator.

21. In addition, granting SMRC a permanent ASV of 2.3% to fund a temporary service, based on a different assessment methodology to that used by IPART for annual rate peg reviews would expose the Local Government Cost Index (LGCI) to severe questioning by local ratepayers and NSW businesses, not only for the 2020/21 rate peg review, but also for future reviews.

22. To minimise the risk presented by the ASV for 2022/23 process to IPART's reputation as well as reduce the risk that NSW ratepayers and NSW businesses will question the methodology for the annual rate peg review and, specifically the LGCI, I recommend the following course of action for the Tribunal's consideration:

- IPART could approve the 2.3% ASV sought by SRC, **but** only for 2022/23, i.e. **not approve a permanent ASV increase**,
  - the 2.3% ASV for 2022/23 sought by SMRC is 1.5% above the 0.8% rate peg increase approved by IPART for 2022/23 for SMRC in December 2021;
  - a 2.3% ASV for 2022/23 is in line with Council's and the SMRC community's expectation for the rate peg increase for 2022/23, reflected in Council's Long Term Financial Plan covering 2021-22;





## 6.

- A temporary ASV for 2022-23 will not require SMRC to 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;
  - this will help ensure that SMRC's application is consistent with the Office of Local Government's updated ASV Guidelines (22-07) and IPART's 7 April 2022 Additional Special Variations 2022-23 Information Paper.
  - and is consistent with granting a temporary special rate variation to funds a temporary local government service;
- Approving a temporary ASV of 2.3% for 2022/23 only will not prejudice any review undertaken by the NSW Minister for Local Government of SMRC's budgetary situation or financial management and accounting practices, requested in my letter of 7 April 2022 to the Minister, and;
  - requested in a large number of letters to the Minister from more than 120 concerned ratepayers in the Snowy Monaro LGA to the Minister.
- Approving a **permanent** ASV of 2.3% from 2022/23 will prejudice the outcome of community consultations currently underway by SMRC on its draft IP&R Framework for the delivery of local government service across the LGA from 2023-24 to 2031-32;
  - the SMRC community has not yet endorsed any of the 4 financial scenarios in Council's draft LTFP 2022-2032 out for community comment which is aimed at bringing Council's operating budget deficit back into balance over time, and;
- Approving a **permanent** ASV would pre-empt SMRC's consideration of submissions lodged by the SMRC community on Council's draft Suite of Integrated Planning and Reporting Documents (I&R) Framework - 2022 to 2032 and the four financial scenarios regarding possible rate rises over the life of the IP&R documents.
- Following the adoption by SMRC of a new IP&R framework fro 2022-2042, SMRC can lodge a Special Rate Variation (SRV) application in 2022/23 with IPART for 2023/24 and for the following 8 eight years, if necessary, that reflects the majority support of of Snowy Monaro ratepayers and businesses, and;
  - and the outcome of an investigation by the Minister for Local Government into whether SMRC is "Fit For the Future" and can continue to be a going concern. .

23. The possible way forward minimises the risk that the ASV for 2022/23 process presents to IPART as an independent pricing regulator, and maintain broad community for the annual rate peg process and new methodology. It is also less likely to prejudice a possible review by the Minister for Local Government of SMRC's parlous budgetary situation and financial management and accounting practices.

24. Delivering a temporary ASV for SMRC for 2022/23 to fund a temporary service (the Jindabyne Information and Education Facility - Community Library and Innovation Hub, funded by the NSW Government for 5 years), is consistent with the OLG Guidelines and IPART Information Paper on the ASV for 2022/23 process.



7.

25. I ask that IPART give favourable consideration to my two submissions and my advice on a possible way forward on SMRC's application for an ASV for 2022/23.

Thank You

[REDACTED]

23 May 2022