

Independent Pricing and Regulatory Tribunal
New South Wales

Byron Shire Council's application for a special variation for 2017-18

Under section 508A of *Local Government Act 1993*

Determination
Local Government

May 2017



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1 Determination

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is responsible for setting the amount by which councils may increase their general income, which mainly comprises income from rates. Each year we determine a standard increase that applies to all NSW councils, based on our assessment of the annual change in their costs and other factors. This increase is known as the rate peg.

Under the *Local Government Act 1993* (the Act) councils may apply to us for a special variation that allows them to increase their general income by more than the rate peg. These increases may be either for a single year (s508(2)) or for successive years up to seven years (s508A).

IPART assesses these applications against criteria in Guidelines set by the Office of Local Government (OLG).¹ Box 1.1 explains the Guidelines for 2017-18.

Byron Shire Council applied for a multi-year special variation under section 508A. The council requested increases of 7.50% for each of 2017-18, 2018-19, 2019-20, and 2020-21, a cumulative increase of 33.55% over the four years. It applied for the increase to remain permanently in the rate base.²

After assessing the council's application, we decided to allow the special variation as requested. We have made this decision under section 508A of the Act.

Box 1.1 The Guidelines for 2017-18

IPART assesses applications for special variations using criteria in the *Guidelines for the preparation of an application for a special variation to general income for 2017/2018*, issued by the Office of Local Government. Refer to Table 3.1 for more details on the criteria in the Guidelines.

The Guidelines emphasise the importance of the council's Integrated Planning and Reporting (IP&R) processes and documents to the special variation process. Councils are expected to engage with the community about service levels and funding when preparing their strategic planning documents. The IP&R documents, in particular the Delivery Program and Long Term Financial Plan, must contain evidence that supports a council's application for a special variation.

¹ Office of Local Government, *Guidelines for the preparation of an application for a special variation to general income for 2017/2018*, December 2016 (the Guidelines).

² Byron Shire Council, *Special Variation Application Form Part A 2017-18* (Byron Shire Council Application Part A), Worksheet 1.

Our decision enables the council to address its infrastructure backlog, and to improve its financial sustainability. The council consulted its community to address these issues, both in updating and exhibiting its Integrated Planning and Reporting (IP&R) documents and in preparing its special variation application.

1.1 Our decision

We determined that Byron Shire Council may increase its general income between 2017-18 and 2020-21 by the annual percentages shown in Table 1.1. The annual increases incorporate the rate peg to which the council would otherwise be entitled (1.5% in 2017-18).³ The cumulative increase of 33.55% is 24.24% more than the assumed rate peg increase over the four-year period to 2020-21.

We have attached conditions to this decision, including that the council uses the income raised from the special variation for purposes consistent with those set out in its application.

Table 1.1 sets out our decision and Box 1.2 summarises these conditions.

Table 1.1 IPART’s decision on Byron Shire Council’s application for a special variation in 2017-18

	2017-18	2018-19	2019-20	2020-21
Percentage increase approved	7.50	7.50	7.50	7.50

Note: The rate peg in 2017-18 is 1.5%. In later years the council has assumed a rate peg of 2.5%.

Source: Byron Shire Council, *Application Part A*, Worksheet 1.

Box 1.2 Conditions attached to Byron Shire Council’s approved special variation

IPART’s approval of Byron Shire Council’s application for a special variation over the period from 2017-18 to 2020-21 is subject to the following conditions:

- ▼ The council uses the additional income from the special variation for the purposes of reducing its infrastructure backlog and improving financial sustainability as outlined in the council’s application and listed in Appendix A.
- ▼ The council reports in its annual report for each year from 2017-18 to 2026-27 on:
 - the actual revenues, expenses and operating balance against the projected revenues, expenses and operating balance, as outlined in the Long Term Financial Plan provided in the council’s application, and summarised in Appendix B
 - any significant variations from its proposed expenditure as forecast in the current Long Term Financial Plan and any corrective action taken or to be taken to address any such variation
 - expenditure consistent with the council’s application and listed in Appendix A, and the reasons for any significant differences from the proposed expenditure, and
 - the outcomes achieved as a result of the actual program of expenditure.

³ The council has assumed a rate peg of 2.5% in future years. The special variation percentage approved will not change to reflect the actual rate peg in those years.

2 What did the council request and why?

Byron Shire Council applied to increase its general income by a cumulative 33.55% over the four-year period from 2017-18 to 2020-21, and to permanently incorporate this increase into its general income base.⁴

This increase is higher than outlined in the council's proposal submitted for the Fit for the Future (FFTF) assessment in 2015. At that time, the council proposed a cumulative increase of 22.5% over the four-year period from 2016-17 to 2019-20, including the rate peg.⁵ The additional revenue was to be applied to reducing the infrastructure backlog and improving financial sustainability.

The council estimates that if the requested special variation is approved, its permissible general income would increase from \$19.75 million in 2016-17 to \$26.38 million in 2020-21.

The council intends to use the additional revenue from the special variation to reduce the accumulated infrastructure backlog for its key assets, such as:

- ▼ roads and bridges
- ▼ stormwater, rural drainage, and culverts
- ▼ buildings and public amenities, and
- ▼ parks.

Over the medium to longer term, the additional revenue will also improve the council's financial sustainability.

Over the 4-year period to 2020-21, the special variation would generate additional revenue of \$11.72 million compared to rate increases at the assumed rate peg. This figure would increase to \$43.1 million over a 10-year period, as the special variation remains permanently in the council's rate base.

The council's Long Term Financial Plan (LTFP) indicates it proposes to spend the additional revenue from the special variation on reducing the infrastructure backlog. This expenditure will be supplemented by additional borrowings of \$6 million.⁶

More detail on the council's proposed program of expenditure to 2026-27 is provided in Appendices A and B.

⁴ Byron Shire Council, *Application Part A*, Worksheet 4.

⁵ IPART, *Assessment of Council Fit for the Future Proposals*, October 2015, p 155.

⁶ Byron Shire Council, *Application Part B*, p 7 and Byron Shire Council, *Long Term Financial Plan 2016-2026*, p15.

3 How did we reach our decision?

We assessed Byron Shire Council's application against the criteria in the Guidelines. In making our assessment we also considered the council's most recent IP&R documents, which support its application, as well as its FFTF proposal and a range of comparative data about the council, set out in Appendix C.⁷

Byron Shire Council has applied on the basis of its adopted IP&R documents, in particular the *Revised Delivery Program 2013-2017*, *Long Term Financial Plan 2016-2026 (LTFP)*, and *Strategic Asset Management Plan*.

The rate increases for which the council has applied are substantial, and we considered, among other things, the council's need for the increase, its consideration of the community's priorities and capacity and willingness to pay, and the impact of the rate increase on ratepayers. The application is consistent with the council's Fit for the Future proposal submitted in June 2015, although we note the council's current application requests higher percentage increases than those we assessed during FFTF.

We found that Byron Shire Council's application met the criteria. In particular, we found that:

1. The **need for the proposed revenue** reflects community priorities as is demonstrated in the council's IP&R documents, and is supported by our FFTF assessment of the council's financial sustainability.
2. The council demonstrated that **the community is aware** of the need for and extent of the rate increases. It used a variety of strategies to inform the community, although the early consultation material did not adequately outline the scenario with no special variation. Subsequent consultation material clearly addressed the possible outcomes and base case with no special variation. There were sufficient opportunities for community feedback.
3. The **impact of the proposed rate rises on ratepayers** is substantial but reasonable given the council's existing rate levels, its history of special variations, the purpose of the special variation, indicators of the community's capacity to pay, and the council's consideration of affordability.
4. The council provided evidence that the relevant **IP&R documents have been exhibited and adopted**.
5. The council demonstrated **productivity savings and cost containment strategies** in past years, and indicated its intention to realise further savings during the period of the special variation.

Table 3.1 summarises our assessment against the criteria. The sections following the table discuss some of our findings in more detail.

⁷ See Appendix C. Byron Shire Council is in OLG Group 4, which is classified as urban small/medium regional town/city (population up to 70,000). The group comprised 30 councils as at 2014-15, including councils such as Ballina Shire, Lismore City, and Richmond Valley.

Table 3.1 Summary of IPART’s assessment of Byron Shire Council’s application for a special variation against the criteria in the Guidelines

Criterion	IPART findings
<p>1. The need for and purpose of a different revenue path for the council’s General Fund (as requested through the special variation) is clearly articulated and identified in the council’s IP&R documents, in particular its Delivery Program, Long Term Financial Plan and Asset Management Plan where appropriate. In establishing need for the special variation, the relevant IP&R documents should canvas alternatives to the rate rise. In demonstrating this need councils must indicate the financial impact in their Long Term Financial Plan by including scenarios both with and without the special variation.</p>	<p>The council’s IP&R documents explain the need for and purpose of the special variation (SV) and show:</p> <ul style="list-style-type: none"> ▼ it is consistent with community priorities, and ▼ it will address the infrastructure backlog, estimated to be \$38.2 million in 2015-16, principally related to road infrastructure. <p>Our FFTF assessment observed the council’s operating performance ratio (OPR) was -9.6% in 2015-16 and that a proposed special variation of 5.2% per year from 2016-17 would improve this ratio to 1.4% by 2019-20.</p> <p>Our assessment shows that without the SV the council is forecast to have an average OPR of -1.8% to 2026-27. With the SV, the council is forecast to have an average OPR of 5.6% to 2026-27.</p> <p>The council reported an infrastructure backlog of \$38.2 million in 2015-16. The infrastructure backlog ratio (the backlog divided by the written down value of assets) at 8% is substantially above the FFTF benchmark of 2%. The council’s LTFP shows that without the SV the council would be unable to maintain its assets at existing service levels, with its infrastructure backlog forecast to deteriorate, exceeding 20% from 2024-25.</p> <p>On this basis, we consider the council has demonstrated a financial need for the additional revenue to reduce the infrastructure backlog and improve financial sustainability.</p>
<p>2. Evidence that the community is aware of the need for and extent of a rate rise. The Delivery Program and Long Term Financial Plan should clearly set out the extent of the General Fund rate rise under the special variation. The council’s community engagement strategy for the special variation must demonstrate an appropriate variety of engagement methods to ensure community awareness and input occur.</p>	<p>Overall, we consider the community was adequately consulted, with the IP&R documentation clearly discussing the full extent of the rate rise. While some earlier consultation material did not clearly outline the base case (no SV) scenario, this was corrected in later consultation by the council.</p> <p>The council used a range of engagement methods to make the community aware of the need for, and extent and impact of the rate rise, and to seek community feedback. It gave detailed explanations about the purpose and impact of the SV, and provided opportunities for community feedback.</p> <p>While the community feedback for the SV was broadly negative, the council adequately demonstrated the community was aware of the size and need for the SV.</p> <p>IPART received 48 submissions, all opposing the SV. Many submissions noted either that the proposed SV was unaffordable, or that a greater burden should fall to the large number of tourists visiting Byron Shire.</p>
<p>3. The impact on affected ratepayers must be reasonable, having regard to both the current rate levels, existing ratepayer base</p>	<p>The impact on ratepayers will be substantial over four years. In terms of average rates:</p> <ul style="list-style-type: none"> ▼ the cumulative increase over the past 10 years has

Criterion	IPART findings
<p>and the proposed purpose of the variation. The Delivery Program and Long Term Financial Plan should:</p> <ul style="list-style-type: none"> ▼ clearly show the impact of any rises upon the community ▼ include the council's consideration of the community's capacity and willingness to pay rates and ▼ establish that the proposed rate increases are affordable having regard to the community's capacity to pay. 	<p>been 52.3% for residential, 22.0% for business, and 59.6% for farmland ratepayers, and</p> <ul style="list-style-type: none"> ▼ the council proposes to increase rates evenly across all ratepayers. The 33.5% cumulative increase would be 24.2% higher than the 9.3% assumed rate peg increase over the same period. <p>Our assessment finds:</p> <ul style="list-style-type: none"> ▼ the rates and annual charges outstanding ratio for 2014-15 was 3.72%, which is low compared to the OLG Group 4 average (4.73%) and neighbouring councils ▼ the council's 2011 SEIFA rank (98 out of 153) is mid to low-range, indicating that residents are not unduly disadvantaged ▼ while average residential rates are higher than in neighbouring Ballina Shire and the OLG Group 4 average, they are lower than neighbouring councils Lismore City and Tweed Shire, and ▼ business rates are lower than most neighbouring councils and the OLG Group 4 average. <p>The council considers the community has the capacity and willingness to pay the higher rates based on:</p> <ul style="list-style-type: none"> ▼ a low rates and annual charges outstanding ratio, and ▼ average business and residential rates being relatively low compared with the Northern Rivers region and NSW coastal councils.
<p>4. The relevant IP&R documents must be exhibited (where required), approved and adopted by the council before the council applies to IPART for a special variation to its general income.</p>	<p>The council adopted its CSP in June 2012. The council exhibited its Revised Delivery Program 2013-2017 and Long Term Financial Plan 2016-2026 between 17 December 2016 and 18 January 2017, adopting them on 2 February 2017.</p>
<p>5. The IP&R documents or the council's application must explain the productivity improvements and cost containment strategies the council has realised in past years, and plans to realise over the proposed special variation period.</p>	<p>The council's application outlines productivity, revenue raising, and cost containment strategies, both implemented and planned.</p> <p>Examples of strategies already implemented are:</p> <ul style="list-style-type: none"> ▼ paid parking in areas of Byron Shire, raising \$2.6 million from December 2015 to December 2016 ▼ sale of unproductive assets in 2015, raising \$3.8 million for infrastructure and other projects, and ▼ an organisational restructure that reduced administration and governance expenses from 7% of operating expenditure in 2011-12 to 2% in 2015-16. <p>Examples of planned strategies include:</p> <ul style="list-style-type: none"> ▼ changes to bridge construction methods (estimated to save \$4.5 million over four years) ▼ increasing the paid parking charge (estimated to increase revenue by \$1.2 million per annum), and ▼ retrofitting street and park lighting (forecast to save \$211,000 per annum). <p>The council is seeking further efficiencies by undertaking an ongoing program of service reviews.</p>

Note: SEIFA is the Socio-Economic Indexes for Areas: refer to Appendix C, Table C.2.

Source: Byron Shire Council, *Application Part A*, and *Application Part B*; OLG, unpublished data; NSW Treasury Corporation (TCorp); *Byron Shire Council Financial Assessment, Sustainability and Benchmarking Report*, March 2013; Byron Shire Council, *Revised Delivery Program 2013-2017*; Byron Shire Council, *Long Term Financial Plan 2016-2026*.

3.1 Need for and purpose of the special variation

Byron Shire Council's IP&R documents set out the need for, and purpose of the requested special variation, which is to:

- ▼ fund asset maintenance and renewal, and
- ▼ reduce the infrastructure backlog.

Through community consultation the council found that large proportions of respondents supported increased investment in:

- ▼ buildings and public amenities (88% supported)
- ▼ transport assets, including roads, bridges, and road drainage (83% supported)
- ▼ drainage, including urban and rural stormwater (73% supported), and
- ▼ park facilities (71% supported).⁸

The council's IP&R documents clearly indicate the community is dissatisfied with the current condition of these assets, and supports more expenditure to improve service levels.⁹

Financial sustainability, including infrastructure backlogs

Without the special variation, the council is forecasting consistent operating deficits, as shown by the base case scenario¹⁰ in Figure 3.1 and Table 3.2. The cumulative value of these forecast operating deficits (excluding capital items) is \$9.9 million to 2026-27. Hence, without the special variation, the council's sustainability would deteriorate, and it would not generate sufficient funds to address the \$38.2 million infrastructure backlog and service a growing community.

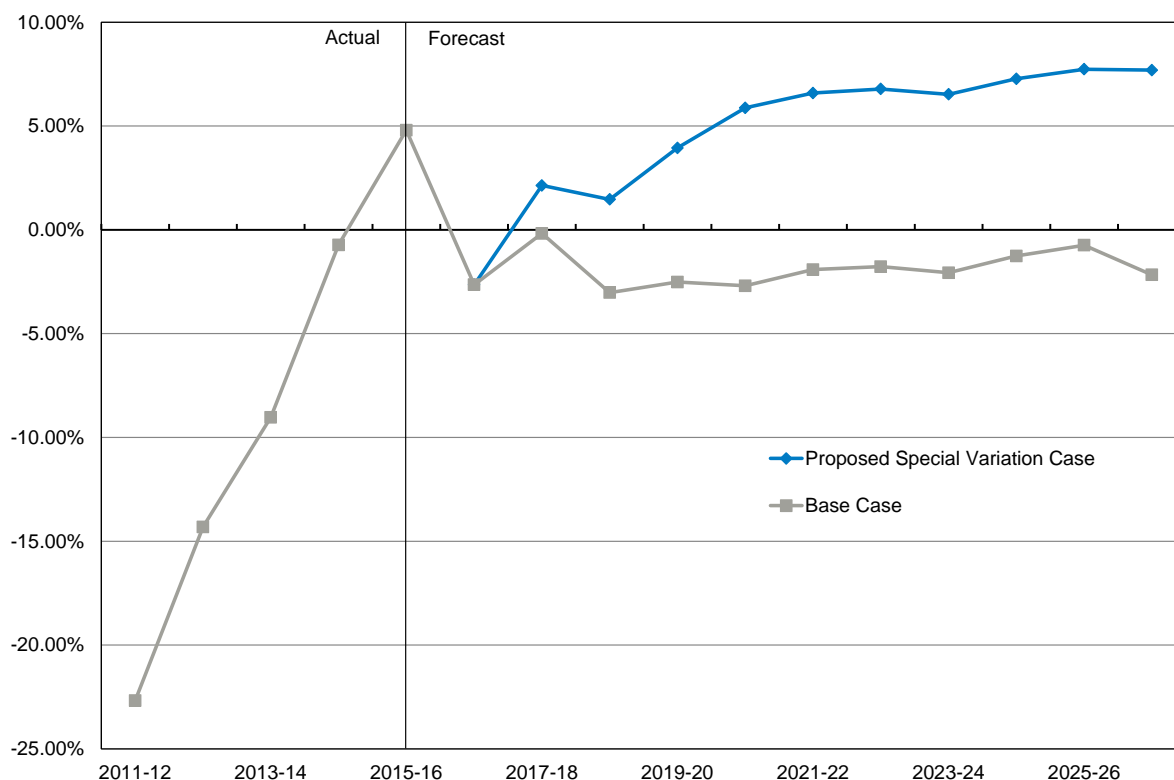
Under the special variation scenario the council forecasts consistent operating surpluses, growing to 5.9% by 2020-21. The cumulative value of these forecast operating surpluses is \$33.7 million to 2026-27. These surpluses would allow the council to reduce its infrastructure backlog and service a growing community.

⁸ Byron Shire Council, *Revised Delivery Program 2013-2017*, February 2017, pp 35-36.

⁹ Byron Shire Council, *Application Part B*, pp 13-19.

¹⁰ This base case assumes the same expenditure occurs as under the special variation scenario.

Figure 3.1 Byron Shire Council's Operating Performance Ratio excluding Capital Grants and Contributions (2011-12 to 2026-27)



Source: Byron Shire Council, *Annual Financial Statements*, various; Byron Shire Council, *Application Part A, Worksheet 7* and IPART calculations.

Note: A number of one-off accounting changes have resulted in improvements to the council's OPR ratio. First, Roads to Recovery grants were classified as capital grants revenue prior to 2015-16, and subsequently reclassified as operating grants revenue. A revaluation of the council's infrastructure assets was undertaken in 2014-15, resulting in an ongoing reduction of depreciation expense, estimated to be \$1.8 million for the first year. The improvement in the council's OPR ratio in recent years can be attributed to these accounting changes and the alternative funding strategies outlined on page 10.

Table 3.2 Projected operating performance ratio (%) for Byron Shire Council's special variation application compared with its FTF proposal

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Application - including SV (33.55% to 2020-21)	2.1	1.5	3.9	5.9	6.6	6.8	6.5	7.3	7.7	7.7
Excluding SV	-0.2	-3.0	-2.5	-2.7	-1.9	-1.8	-2.1	-1.3	-0.7	-2.2

Note: The SV scenario reflects the four-year permanent 7.5% per annum special variation (6.0% above the rate peg for 2017-18) outlined in this determination.

Source: IPART calculations based on Byron Shire Council, *Application Part A, Worksheet 7*. Our measure of OPR excludes all capital items.

The infrastructure backlog is the estimated cost to bring the council's assets to a satisfactory standard, consistent with the council's *Strategic Asset Management Plan*. In 2014-15 the council's infrastructure backlog was \$29.5 million, and in 2015-16 the backlog grew to \$38.2 million.¹¹

¹¹ Byron Shire Council, *General Purpose Financial Statements*, 2014-15 and 2015-16, Special Schedule 7.

Measured as a percentage of the written down value¹² of infrastructure assets, the infrastructure backlog ratio for 2015-16 was 8%, which is substantially higher than the FFTF benchmark of 2%. Without the special variation, the council forecasts its infrastructure backlog will increase as its assets deteriorate, with the backlog ratio forecast to exceed 20% from 2024-25.

Box 3.1 Byron Shire Council's Fit for the Future (FFTF) Assessment

IPART's Fit for the Future assessment found the council:

- ▼ Met the criterion for sustainability. The council was forecast to meet the **operating performance benchmark** from 2019-20 based on its then proposed SV of 22.5% cumulative over four years, meet the own source revenue benchmark in all forecast years, and meet the asset renewal benchmark from 2016-17.
- ▼ Met the criterion for infrastructure and service management as it was forecast to improve the **infrastructure backlog** ratio in all forecast years. Improvement was forecast for the asset maintenance ratio. The council met the debt service benchmark in all forecast years.
- ▼ Met the efficiency criterion based on a forecast decline in real operating expenditure per capita from \$1,510 in 2014-15 to \$1,310 in 2019-20.

NSW Treasury Corporation (TCorp) observed in 2013 the council's financial position was 'weak' and its outlook was 'negative'. This assessment was made largely because of forecast operating deficits consistently above 10.0%.

We note the forecast OPRs in the council's FFTF proposal (Table 3.3) are lower than the current special variation application. This is because the FFTF proposal assumed a four-year special variation of 5.2% per year, or 22.5% cumulative (13% above the assumed rate peg), from 2016-17. However, we note the council's FFTF proposal identified the need for a special variation of up to 10% per year, with the 22.5% cumulative special variation the scenario adopted for forecasting purposes.

By contrast the current special variation is for 7.5% per year, or 33.55% cumulative (24.2% above the assumed rate peg) from 2017-18. Hence, the council now forecasts a higher OPR for the years 2017-18 to 2019-20.

Table 3.3 Projected operating performance ratio for Byron Shire Council's FFTF proposal (%)

	2015-16	2016-17	2017-18	2018-19	2019-20
FFTF – including SV (4-year, 22.5% cumulative from 2016-17)	-9.6	-3.1	-0.3	0.9	1.4
Current SV Application - including SV (4-year 33.55% cumulative from 2017-18)	na	na	2.1	1.5	3.9

Note: FFTF figures assume that the council applies for an SRV of 22.5% cumulative (13% above rate peg) over four years from 2016-17.

Source: Byron Shire Council, *Council Improvement Proposal*, June 2015. Our measure of OPR excludes all capital items.

Source: IPART, *Assessment of Council Fit for the Future Proposals*, October 2015, p 155, and NSW Treasury Corporation (TCorp), *Financial Sustainability of the New South Wales Local Government Sector*, April 2013, p 18

¹² Historical cost less accumulated depreciation.

Alternative funding strategies

In recent years the council has implemented a number of alternative revenue raising and cost containment strategies to improve financial sustainability. Key strategies include:

- ▼ the introduction of paid parking in Byron Bay town centre, which during the period of December 2015 to December 2016 raised \$2.6 million in additional revenue
- ▼ extending the paid parking area to include Wategos Beach, with an estimated increase in annual net revenue of \$200,000
- ▼ the sale of unproductive residential land at Ocean Shores, resulting in \$3.8 million revenue to fund infrastructure projects, and
- ▼ an organisational restructure, resulting in savings in administration and governance expense (\$3.5 million since 2011-12), employee costs (\$750,000 per annum ongoing), and procurement expenses (\$188,000 in 2015-16).¹³

In addition, the council is undertaking reviews of operations and management on an ongoing basis in an effort to achieve further operational efficiencies and savings in service delivery. Future initiatives include:

- ▼ changes to the construction methodology for the bridge program (forecast savings of \$4.5 million to 2020-21)
- ▼ an increase in the paid parking charge by \$1 per hour (estimated to increase revenue by \$1.2 million per annum)
- ▼ retrofitting street and park lighting (forecast savings of \$211,000 per annum), and
- ▼ generating commercial returns on air space leases (forecast additional revenue of \$240,000 per annum).¹⁴

In addition to the above, the council is undertaking a continuing program of service reviews to identify further cost efficiencies.

3.2 Community engagement and awareness

We consider the council has met this criterion.

The council used a variety of methods to engage with the community, ensuring ratepayers were aware of the proposed special variation and had opportunities to provide feedback. The council consistently provided information about the need for the rate increase. However, in early consultation material the council did not adequately outline the base case (no special variation) scenario. This shortcoming was corrected in later consultation material.

The council implemented its community engagement and awareness strategy in four phases:

- ▼ Phase 1 - community satisfaction surveys conducted from July to August 2016, to determine levels of community satisfaction and changes from the 2013 survey results.
- ▼ Phase 2 - an asset survey conducted from August to September 2016, to determine community attitudes regarding priority assets and council investment.

¹³ Byron Shire Council, *Application Part B*, pp 85-96.

¹⁴ Byron Shire Council, *Application Part B*, pp 97-101.

- ▼ Phase 3 – the special rate variation awareness campaign *Funding our Future* conducted from September to November 2016, to determine ratepayers’ preferred special variation option and community support for a special variation.
- ▼ Phase 4 – exhibiting updated IP&R documentation, to provide additional special variation information to the community and to improve awareness and seek submissions regarding the special variation process.¹⁵

In addition to the surveys and public exhibition of the documents outlined above, community awareness and associated feedback came from a variety of engagement methods, including:

- ▼ advertising and media releases
- ▼ community forums
- ▼ council kiosks at community events, and
- ▼ social media engagement.

The need for the special variation was clear throughout the council’s consultation process, and supported by community attitudes and perceptions of the council’s assets.

A telephone survey conducted in July 2016 on services and facilities found resident satisfaction with important assets was low. The council’s roads, public toilets, and footpaths were identified as assets with relatively high perceived importance and low satisfaction.

A further telephone survey conducted in August 2016 discussed community attitudes towards council investment. A large proportion of the 403 respondents were either supportive or very supportive of additional investment in transport (83%), rural drainage (73%), and urban stormwater drainage (73%).¹⁶

When communicating the impact of the proposed special variation on ratepayers, the council did not always adequately outline the required base case scenario, in which no special variation would apply. During phase 3 of the council’s consultation strategy, newspaper advertisements, display banners, and a community information booklet did not clearly display the base case as a possible option. Whilst the cumulative dollar and percentage impact of the proposed special variations were clearly outlined in this material, ratepayers would have needed to access the council website for similar information regarding the base case (rate peg only) scenario.

During phase 4 of the council’s consultation strategy, however, this shortcoming was corrected. Both newspaper and radio advertisements clearly identified the base case outcome, and identified the annual and cumulative percentage impact of this scenario. Further, a fact sheet mailed to all ratepayers in January 2017 as part of the quarterly rate reminder notices also clearly identified that the base case with no special variation was a possible outcome. All special variation material from phases 3 and 4 clearly identified the annual and cumulative impact of the special variation scenarios, both in dollar and percentage terms.

¹⁵ Byron Shire Council, *Application Part B*, pp 23-67.

¹⁶ Byron Shire Council, *Application Part B*, pp 53-55.

We consider the council explained the need for and purpose of the proposed special variation, and provided reasonable opportunities for community feedback. We consider the community was adequately informed of the extent of the rate increases.

Outcome of consultation on rate increases

Although this criterion does not require councils to demonstrate community support for the special variation, we require that councils consider the results of their community consultation in preparing their application.

The council outlined three potential special variation options:

- ▼ option 1 - a four year special variation of 33.5% in total or 7.5% per year including the assumed rate peg
- ▼ option 2 - a four year special variation of 46.4% in total or 10.0% per year including the assumed rate peg, and
- ▼ option 3 - a four year special variation of 60.2% in total or 12.5% per year including the assumed rate peg.

The council conducted several surveys which showed highest support for the no rate rise scenario.

In November 2016 the council engaged Micromex Research to undertake a telephone survey of the community's preferences for the special variation options. Survey participants were randomly chosen and weighted to reflect the local government area (LGA) demographics. When asked which scenario was first preference, 39% of respondents preferred no special rate variation, ie the base case. The remaining 61% were approximately evenly distributed across the three special variation options. When respondent's first and second preferences were added:

- ▼ 48% of respondents expressed a preference for the no special variation (base case) option
- ▼ 66% of respondents expressed a preference for the 33.5% cumulative (7.5% per annum) special variation
- ▼ 56% of respondents expressed a preference for the 46.4% cumulative (10.0% per annum) special variation, and
- ▼ 30% of respondents expressed a preference for the 60.2% cumulative (12.5% per annum) special variation.¹⁷

In addition to the Micromex Research telephone survey, the council hosted an opt-in survey on its website, with exactly the same information and questions as the telephone survey. Of the 902 online survey participants, 67% responded that no special variation was their preferred option, with 9% indicating support for option 1.

The council also mailed out reply paid postcards with rates notices during community consultation. The opt-in postcards asked respondents to choose their preferred special

¹⁷ Byron Shire Council, *Application Part B*, pp 56-58. As first and second preferences are added together, the total percentage approval will sum to 200.

variation option, with 31% of the 826 respondents in favour of no special variation or not stating a preference, and 25% in favour of option 1.¹⁸

Based on these outcomes the council decided to apply for option 1 from the consultation material, the 7.5% per annum special variation over four years.

Submissions

The council received 81 written submissions and 17 phone calls between 26 October and 28 November 2016: 56 of the written submissions opposed the application, whilst 10 of the phone submissions opposed the application. The main reasons for opposition were:

- ▼ the rate increase was unaffordable
- ▼ the council should use alternative sources of funding, such as a tourism tax, and
- ▼ the council should become more efficient before seeking a rate rise.

The council responded to community concerns by:

- ▼ email newsletters sent to subscribers and survey respondents,
- ▼ commentary submitted to social media and letters to newspapers, and
- ▼ a frequently asked questions section hosted on the council website, which provided responses to frequent criticisms received from survey respondents.

IPART received 48 submissions, all opposing the application, mainly on the grounds of affordability and the need for alternative revenue streams that collect a greater proportion of infrastructure costs from tourists and tourism operators.

In summary, we consider the council has made the community aware of the rate increase, and considered community feedback in determining the size of the special variation.

3.3 Reasonable impact on ratepayers

We consider the council has met this criterion.

We consider the impact of the special variation will be substantial but reasonable given current average rate levels, the community's capacity to pay, and the council's financial sustainability and current infrastructure backlog. Our conclusion is supported by socio-economic indicators for Byron Shire when compared to similar and neighbouring councils, and the council's consideration of affordability.

Magnitude of increase

The council requested a four-year increase of 7.50% per annum (33.55% cumulative), which will remain permanently in the rate base. This comes after a cumulative increase in average residential rates of 52.3% since 2006-07, compared with the cumulative rise of 33.1% under the rate peg during this period.

¹⁸ Byron Shire Council, *Application Part B*, pp 59-61.

The council's consideration of impact on ratepayers

The council considers the existing community has the capacity and willingness to pay. As outlined in Section 3.2, through multiple surveys of the community the council has identified community dissatisfaction with key infrastructure assets, particularly the road network.

In terms of affordability, the council's rates and annual charges outstanding ratio for 2014-15 was 3.72%, which is lower than the OLG Group 4 average of 4.73%. The council's 2015-16 ratio has risen slightly to 4.00%. The council says these percentages are below the benchmark for urban councils of 5%, which indicates the community, in aggregate, has the capacity to meet the existing level of rates.

As part of the community consultation process, there is evidence residents are somewhat supportive of a special variation in rates to improve asset quality. Further, the 2011 SEIFA ranking of 98 out of 153 councils in NSW indicates residents of the LGA are not unduly disadvantaged, and therefore would generally have the capacity to pay higher rates.

In assessing the reasonableness of the impact of the special variation on ratepayers, we examined the council's special variation history and the average annual growth of rates in various rating categories. We found that since 2006-07:

- ▼ the council has applied for five and been granted three special variations. The successful special variation applications were for infrastructure renewal and maintenance, and improving services. The unsuccessful special variation applications were for funding existing services, providing community access to new technology, restoring roads and drainage, and operating and maintenance expenditure on community facilities.¹⁹
- ▼ the average annual growth in residential ordinary and special rates was 4.3%, whilst the average annual growth in business rates was 2.0%. This compares with the average annual growth in the rate peg of 2.9% over the same period.

¹⁹ The successful special variation applications occurred in the financial years 2006-07, 2007-08, and 2008-09. The unsuccessful special variation applications occurred in the financial years 2010-11 and 2011-12.

Table 3.4 compares rates and socio-economic indicators within Byron Shire to neighbouring councils and peer Group 4 councils.

Table 3.4 Byron Shire Council – comparison of rates and socio-economic indicators with surrounding councils and Group 4 averages (2014-15)

Council (OLG Group)	Average residential rate (\$) ^a	Average business rate (\$) ^b	Average taxable income (2011)	Ratio of average rates to average income (%)	Outstanding rates ratio (%) ^c	SEIFA Index NSW Rank ^d
Neighbouring Councils						
Ballina Shire (4)	815	2,677	40,734	2.0	4.38	99
Lismore City (4)	1,082	4,298	38,784	2.8	9.16	66
Richmond Valley (4)	735	1,917	35,020	2.1	9.41	7
Tweed Shire (5)	1,231	2,908	39,594	3.1	5.22	68
Byron Shire (4)	1,036	2,426	37,689	2.7	3.72	98
Group 4	956	3,393	44,245	2.2	4.76	N/A

a The average residential rate (ordinary and special) is calculated by dividing total Ordinary Rates revenue by the number of assessments in the category.

b The average business rate is calculated by dividing total Ordinary Rates revenue by the number of assessments in the category.

c The outstanding rates ratio includes water and sewer.

d The highest possible ranking is 153 which denotes the council in NSW that is least disadvantaged.

Source: OLG, unpublished data; ABS, *Regional Population Growth, Australia*, August 2013; ABS, *Estimates of Personal Income for Small Areas, 2005/06 to 2010/11*, October 2013; ABS, *Socio-Economic Indexes for Areas (SEIFA) 2011*, March 2013 and IPART calculations.

Based on 2014-15 data, we found that:

- ▼ The council's average residential rate levels (\$1,036) were 8% higher than the Group 4 average (\$956). The council's average residential rate levels were 27% higher than Ballina Shire (\$815), a neighbouring council from the same OLG group.
- ▼ The council's average business rates of \$2,426 were 9% lower than a comparable Group 4 council, Ballina Shire (\$2,677), and substantially (28%) lower than the Group 4 average of \$3,393. The council's average business rates were lower than the neighbouring councils Lismore City and Tweed Shire (\$4,298 and \$2,908 respectively).
- ▼ The outstanding rates ratio was lower than the Group 4 average and all neighbouring councils, and substantially lower than the ratios in Lismore City and Richmond Valley.

Taking these factors into account, along with the financial sustainability and conditions of current infrastructure, we consider the impact of the increase to be substantial but reasonable.

4 What does our decision mean for the council?

Our decision means Byron Shire Council may increase its general income over the 4-year special variation period from \$19.8 million in 2016-17 to \$26.4 million in 2020-21. Table 4.1 shows the annual increases in the dollar amounts to the council's general income. These amounts reflect the percentage increases we have approved and, in 2017-18, adjustments that occur as a result of various catch-up and valuation adjustments.

These increases will be permanently incorporated into the council's revenue base. After 2020-21, the council's permissible general income can increase up to the annual rate peg unless we approve a further special variation.²⁰

Table 4.1 Permissible general income of Byron Shire Council from 2017-18 to 2020-21 arising from the special variation approved by IPART

Year	Increase approved (%)	Cumulative increase approved (%)	Annual increase in general income (\$)	Permissible general income (\$)
Adjusted notional income 1 July 2017				19,751,015
2017-18	7.5	7.5	1,484,119 ^a	21,235,134
2018-19	7.5	15.56	1,592,635	22,827,769
2019-20	7.5	24.23	1,712,083	24,539,852
2020-2021	7.5	33.55	1,840,489	26,380,341
Total increase approved			6,629,326	

^a A prior catch-up of \$2,793 that had not been recouped by the time of the application was submitted to IPART is to be recouped in 2017-18.

Note: The above information is correct at the time of the council's application (February 2017).

Source: Byron Shire Council, *Application Part A*, Worksheets 1 and 4 and IPART calculations.

The council estimates over these four years to 2020-21 it will collect an additional \$11.7 million rate revenue compared to rate increases that are limited to the assumed rate peg.

This extra income is the amount the council requested to enable it to fund asset maintenance and capital renewal costs, and address the infrastructure backlog.

²⁰ General income in future years cannot be determined with precision, as it will be influenced by several factors in addition to the rate peg. These factors include changes in the number of rateable properties and adjustments for previous under- or over-collection of rates. The Office of Local Government is responsible for monitoring and ensuring compliance.

5 What does our decision mean for ratepayers?

IPART sets the allowable increase in general income, but it is a matter for each individual council to determine how it allocates any increase across different categories of ratepayer, consistent with our determination.

In its application, Byron Shire Council indicated that it intended to increase rates uniformly by 7.5% per year over the four years, or 33.5% in total, for each category. The actual average rate increase across all categories over four years will be different from 33.5%, because of the additional impact of the 2017-18 land revaluations.

The council has calculated, taking into account both the 33.5% increase and the impact of land revaluations:

- ▼ the average residential rate will increase by 33.35% or \$376.50 over four years, or by \$82.87 in the first year
- ▼ the average business rate will increase by 35.58% or \$937.28 over four years, or by \$240.71 in the first year
- ▼ the average farmland rate will increase by 31.64% or \$503.16 over four years, or by \$94.83 in the first year
- ▼ the minimum rates for all categories except residential (flood prone land) will increase by a cumulative 33.53% or \$233 over four years, or by \$52 in the first year, and
- ▼ the minimum rates for the residential (flood prone land) category will increase by a cumulative 21.47% or \$82 over four years, with a decrease of \$8 in the first year.

Table 5.1 sets out Byron Shire Council's estimates of the expected increase in average rates in each ratepayer category.

Table 5.1 Indicative annual increases in average rates under Byron Shire Council's approved special variation 2017-18 to 2020-21

Year	2016-17	2017-18	2018-19	2019-20	2020-21	Cumulative Increase 2017-21
Residential Average (\$)	1,129	83	91	98	105	377
Residential Average (%)	-	7.3	7.5	7.5	7.5	33.4
Residential (\$)	1,131	83	91	98	105	377
Residential (%)	-	7.4	7.5	7.5	7.5	33.4
Flood Prone Land (\$)	393	-6	29	31	34	87
Flood Prone Land (%)	-	-1.6	7.5	7.5	7.5	22.2
Business Average (\$)	2,634	241	216	232	249	937
Business Average (%)	-	9.14	7.50	7.50	7.50	35.6
Business (\$)	2,057	165	167	179	193	703
Business (%)	-	8.0	7.5	7.5	7.5	34.2
Byron Bay CBD (\$)	4,453	478	370	398	427	1673
Byron Bay CBD (%)	-	10.7	7.5	7.5	7.5	37.6
Farmland (\$)^a	1,590	95	126	136	146	503
Farmland (%)	-	6.0	7.5	7.5	7.5	31.6

a There is only one Farmland rating category.

Notes: 2016-17 is included for comparison.

The average rate is calculated by Byron Shire Council, and includes the ordinary rate and any special rates applying to the rating category.

The average rate increase in 2017-18 takes into account both the 7.5% increase in rates and the effect of the 2016-17 land revaluations on all categories.

Numbers are rounded to the nearest dollar. Some numbers may not add due to rounding.

Source: Byron Shire Council, *Application Part A*, Worksheet 5a.



Appendices



A Expenditures to be funded from the special variation above the rate peg

Table A.1 and Table A.2 show Byron Shire Council's proposed expenditure of the special variation funds over the next 10 years.

The council will use the additional special variation revenue, above the rate peg, of \$43.1 million over 10 years to fund:

- ▼ an improvement in the operating balance (excluding capital grants and contributions) of \$39.3 million, and
- ▼ \$3.8 million of operating expenditure to maintain current service levels (see Table A.1).²¹

At the same time, the improvement in the operating balance will fund \$39.3 million in extra capital expenditure over the period from 2017-18 to 2026-27, to reduce the infrastructure backlog and service a growing community (see Table A.2).²²

As a condition of IPART's approval, the council will indicate in its Annual Reports how its actual expenditure compares with this proposed program of expenditure.

²¹ Byron Shire Council, *Application Part A*, Worksheet 6.

²² Byron Shire Council, *Application Part A*, Worksheet 6.

Table A.1 Byron Shire Council – Income and proposed expenditure over 10 years related to the special variation (\$000)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	Total
Special variation income above assumed rate peg	1,185	2,276	3,475	4,789	4,908	5,031	5,157	5,286	5,418	5,553	43,078
Funding for increased operating expenditures	104	199	304	418	429	439	450	462	473	485	3,762
Funding to reduce operating deficits (or increase surpluses)	-	-	-	-	-	-	-	-	-	-	-
Funding for capital expenditure	1,082	2,078	3,171	4,370	4,480	4,592	4,707	4,824	4,945	5,068	39,315
Additional expenditure	-	-	-	-	-	-	-	-	-	-	-

Note: Numbers may not add due to rounding. Total special variation expenditure equals funding for increased operating expenditures plus funding for capital expenditure. Funding for improving the operating balance generates cash flow that is available for funding capital expenditure.

Source: Byron Shire Council, *Application Part A*, Worksheet 6.

Table A.2 Byron Shire Council – Proposed 10-year capital expenditure program related to the special variation (\$000)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	Total
Roads, Bridges, Footpaths, and Road drainage	712	1,368	2,088	2,878	2,950	3,024	3,100	3,177	3,256	3,338	25,892
Urban stormwater	52	101	154	212	217	222	228	234	239	245	1,903
Rural drainage and culverts	37	71	108	149	153	157	161	165	169	173	1,341
Buildings and Public amenities	219	421	643	886	908	930	954	978	1,002	1,027	7,967
Parks and Open space	61	117	179	246	252	259	265	272	278	285	2,213
Total Capital Expenditure	1,082	2,078	3,171	4,370	4,480	4,592	4,707	4,824	4,945	5,068	39,315

Note: Numbers may not add due to rounding.

Source: Byron Shire Council, *Application Part A*, Worksheet 6.

B Byron Shire Council's projected revenue, expenses and operating balance

As a condition of IPART's approval, Byron Shire Council is to report annually against its projected revenue, expenses and operating balance as set out in its LTFP (shown in Table B.1).

Revenues and operating results in the annual accounts are reported both inclusive and exclusive of capitals and contributions. In order to isolate ongoing trends in operating revenues and expenses, our analysis of the council's operating account in the body of this report excludes capital grants and contributions.

Table B.1 Summary of projected operating statement for Byron Shire Council, 2017-18 to 2026-27 (\$000)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-2024	2024-25	2025-26	2026-27
Total revenue	51,209	51,989	54,821	57,032	58,442	59,455	60,866	62,336	63,992	65,343
Total expenses	50,115	51,228	52,659	53,683	54,592	55,422	56,895	57,804	59,043	60,317
Operating result from continuing operations	3,003	2,722	3,727	4,958	5,222	5,220	5,172	5,747	5,778	5,857
Net operating result before capital grants and contributions	1,094	761	2,162	3,349	3,849	4,033	3,971	4,532	4,948	5,027

Note: Numbers may not add due to rounding.

Source: Byron Shire Council, *Application Part A*, Worksheet 7.

C Comparative indicators

Performance indicators

Indicators of council performance may be considered across time, either for one council or across similar councils, or by comparing similar councils at a point in time.

Table C.1 shows how selected performance indicators for Byron Shire Council have changed over the four years to 2014-15.

Table C.1 Trends in selected performance indicators for Byron Shire Council, 2011-12 to 2014-15

Performance indicator	2011-12	2012-13	2013-114	2014-15	Average annual change (%)
FTE staff (number)	244	247	243	248	0.6
Ratio of population to FTE	127	125	127	125	-0.4
Average cost per FTE (\$)	76,315	77,107	83,846	78,794	1.1
Employee costs as % operating expenditure (General Fund only) (%)	28.0	30.1	31.6	28.0	0.0
Consultancy/contractor expenses (\$m)	4.7	5.3	5.8	7.3	15.7
Consultancy/contractor expenses as % operating expenditure (%)	6.3	7.0	7.8	9.2	13.8

Note: Except as noted, data is based upon total council operations that include General Fund, Water & Sewer and other funds, if applicable.

Source: OLG, unpublished data.

In addition to the above table the following comparisons can be made:

- ▼ The council's average cost per FTE and ratio of population to FTE is similar to the Group 4 council averages (\$79,763 and 121 respectively). However, the proportion of operating expenditure that the council spent on employee costs is much lower than the average for Group 4 councils (38.3%).

General comparative indicators

Table C.2 compares selected published and unpublished data about Byron Shire Council with the averages for the councils in its OLG Group, and for NSW councils as a whole.

As indicated in section 3, Byron Shire Council is in OLG Group 4. Unless specified otherwise, the data refers to the 2014-15 financial year.

Table C.2 Select comparative indicators for Byron Shire Council, 2014-15

	Byron Shire Council	OLG Group 4 average	NSW average
General profile			
Area (km ²)	567		
Population	30,960		
General Fund operating expenditure (\$m)	57.2		
General Fund operating revenue per capita (\$)	1,855	1,534	2,029
Rates revenue as % General Fund income (%)	37.5	41.5	45.1
Own-source revenue ratio (%)	66.2	66.3	69.0
Average rate indicators^a			
Average rate – residential (\$)	1,036	956	790
Average rate – business (\$)	2,426	3,393	2,949
Average rate – farmland (\$)	1,779	2,053	2,490
Socio-economic/capacity to pay indicators^b			
Average annual income for individuals, 2011 (\$)	37,689	44,245	49,070
Growth in average annual income, 2006-2011 (% pa)	4.2	4.5	5.2
Average residential rates 2013-14 to average annual income, 2011 (%)	2.7	2.2	1.6
SEIFA, 2011 (NSW rank: 153 is least disadvantaged)	98		
Outstanding rates and annual charges ratio (General Fund only) (%)	3.72	4.76	4.64
Productivity (labour input) indicators^c			
FTE staff (number)	248	316	295
Ratio of population to FTE	125	121	127
Average cost per FTE (\$)	78,794	79,763	80,173
Employee costs as % operating expenditure (General Fund only) (%)	28.0	38.4	38.6
Consultancy/contractor expenses (\$m)	7.3	6.7	8.8
Consultancy/contractor expenses as % operating expenditure (%)	9.2	8.2	10.9

^a Average rates equal total rates (ordinary and special) revenue divided by the number of assessments in each category.

^b Average annual income includes income from all sources excluding government pensions and allowances.

^c Except as noted, data is based upon total council operations, including General Fund, Water & Sewer and other funds, if applicable. There are difficulties in comparing councils using this data because councils' activities differ widely in scope and they may be defined and measured differently between councils.

Source: OLG, unpublished data; ABS, *Regional Population Growth, Australia*, August 2013; ABS, *Estimates of Personal Income for Small Areas, 2005/06 to 2010/11*, October 2013; ABS, *Socio-Economic Indexes for Areas (SEIFA) 2011*, March 2013 and IPART calculations.