



Independent Pricing and Regulatory Tribunal

Cessnock City Council's application for a special variation for 2013/14

**Local Government — Determination
June 2013**

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1 Determination

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is responsible for setting the amount by which councils can increase their general income, which mainly comprises rates income. 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.

However, councils may apply to us for a special variation that allows them to increase their general income by more than the rate peg. We are required to assess these applications against criteria in the Guidelines issued by the Division of Local Government (DLG),¹ and may allow special variations under either section 508A or 508(2) of the *Local Government Act 1993* (the Act).

Cessnock City Council applied for a special variation in 2013/14 of 9.45%. After assessing the council's application, we decided to allow the special variation as requested. We made this decision under section 508(2) of the Act.

1.1 Our decision

We determined that Cessnock City Council may increase its general income by 9.45% in 2013/14. This includes the rate peg of 3.4% that is available to all councils. The increase above the rate peg may be retained in the council's general income base for 1-year only.

We have attached conditions to this decision, including that the council uses the income raised for the purposes set out in its application.

¹ *Guidelines for the preparation of an application for a special variation to general income*, issued by Division of Local Government, Department of Premier and Cabinet, October 2012. The criteria in the Guidelines have been revised for 2013/14. Councils applying under section 508(2) no longer need to demonstrate adequate community consultation. Instead they need to demonstrate appropriate engagement methods have been used and the community has had opportunity for awareness and input. The council must also consider the community's capacity and willingness to pay. In addition, in assessing applications against the criteria we are now required to consider the size and resources of a council, the size of the rate increase, current and previous rate levels, and the purpose of the special variation.

Table 1.1 sets out our decision and Box 1.1 lists the conditions attached to it.

Table 1.1 IPART’s decision on Cessnock City Council’s application for a special variation in 2013/14 (%)

Component	Amount
Increase to fund road network infrastructure renewal	6.05
Rate peg increase	3.40
Total increase	9.45

Box 1.1 Conditions attached to the approved special variation for Cessnock City Council

IPART’s approval of Cessnock City Council’s application for a special variation in 2013/14 is subject to the following conditions:

- ▼ The council uses the additional income from the special variation for the purposes of funding the works outlined in the council’s application, and listed in Appendix A.
- ▼ The council reports in its annual report for the rating year of 2013/14 on:
 - the program of expenditure that was actually funded by the special variation, and the reasons for any significant differences from the program in Appendix A
 - the outcomes achieved as a result of the actual program of expenditure.
- ▼ In 2014/15, the council is to reduce general income to what it would have been without the special variation.
- ▼ The council reports to the Division of Local Government by 30 November 2014 on its compliance with these conditions.

We note that the council will be reducing its general income for 2013/14 by \$1,635,381 (the value of the expiring special variation). This reduction shall take place before the council’s general income is increased in 2013/14 in accordance with IPART’s determination.

1.2 What did the council request and why?

Cessnock City Council requested a special variation of 9.45% comprising 2 components:²

- ▼ a 6.05% increase for infrastructure renewal, to replace an existing special variation that is due to expire, and that will be retained in the council’s rate base for 1-year only³
- ▼ the rate peg of 3.40%.

² Cessnock City Council, *Section 508(2) Special Variation Application 2013/14 – Part A* (Cessnock Application Part A), Worksheet 1.

³ Cessnock Application Part A, Worksheet 4.

The council estimated that the 6.05% increase above the rate peg would generate \$1.7m in additional revenue in 2013/14.⁴ It plans to use this income to fund its proposed program of resealing and rehabilitation works for local roads. This proposed program of capital expenditure is set out in Appendix A.

1.3 How did we reach our decision?

We assessed Cessnock City Council's application against the criteria in the Guidelines, taking into account the transitional arrangements. These arrangements give us the discretion, for the 2013/14 rating year, to award a single-year variation where we assess that the council has met the general principles of the criteria even though the evidence is not necessarily contained within its latest available Integrated Planning and Reporting (IP&R) documentation.⁵ We also considered a range of comparative data about the council, set out in Appendix B.

We found that the application met the criteria as they are to be applied under the transitional arrangements. In particular, the council:

1. Demonstrated a need for the continued infrastructure renewal spending.
2. Provided evidence that the community is aware of the need for, and the extent of, the proposed rate rise, as well as broad support for the special variation.
3. Showed that the impact on affected ratepayers is reasonable.
4. Made realistic assumptions concerning its projected service delivery and budget.
5. Achieved productivity savings in past years, and plans to realise additional savings over the period of the proposed special variation.

Table 1.2 summarises our findings against each of the criteria. The following sections discuss our assessment against 3 of the criteria – need, community engagement and impact on ratepayers – in more detail.

⁴ Cessnock Application Part A, Worksheet 4.

⁵ These arrangements were included in the Guidelines because, in light of the 2012 local government elections and the requirement for councils to review their IP&R documents and update key plans and programs by 30 June 2013, it was recognised that the revised Guidelines and application timing may create a difficulty for councils who wish to apply but have not yet formally adopted their updated plans and programs.

Table 1.2 Summary of IPART’s assessment of the criteria in the Guidelines under the transitional arrangements

Criterion	IPART findings
<p>1. Need for and purpose of special variation must be clearly identified. Evidence could include community need/desire for service levels/project and limited council resourcing alternatives, and the council’s financial sustainability assessment conducted by the NSW Treasury Corporation (TCorp).</p>	<p>The expiring special variation has been in place for 2 years. The council has demonstrated the need to continue it by showing that:</p> <ul style="list-style-type: none"> ▼ roads are the greatest priority and have the lowest satisfaction rating for ratepayers⁶ ▼ the income will fund an ongoing road program⁷ ▼ the program includes resealing and rehabilitating particular regional and local collector roads to extend their life⁸ ▼ the council’s road network contributes significantly to the local economy, in particular the tourism and wine making industries.⁹
<p>2. Evidence that community is aware of need for and extent of proposed rate rise must be provided. An appropriate variety of engagement methods should have been used to ensure opportunity for community awareness/input, and alternatives to a rate rise should have been canvassed. The impact of the rise on the community, and the council’s consideration of community capacity and willingness to pay higher rates should be provided.</p>	<p>Current IP&R documents include the Long Term Financial Plan (LTFP) which forecasts the expiring special variation income to continue for 10 years.¹⁰ The council consulted the community, and used an appropriate range of methods to collect feedback. During consultation, the community were presented with 2 options for 2013/14:</p> <ul style="list-style-type: none"> ▼ discontinue the special variation and reduce average rates ▼ continue expiring special variation for 1-year only, which will mean an increase in rates by the rate peg amount.¹¹ <p>The council considered ratepayers’ capacity and willingness to pay.</p>
<p>3. Impact on affected ratepayers must be reasonable, having regard to both current rate levels, existing ratepayer base and proposed purpose of the variation. The proposed rate increases must be affordable, having regard to the local community’s capacity to pay.</p>	<p>The impact on ratepayers is reasonable given:</p> <ul style="list-style-type: none"> ▼ the increase above the rate peg will be minimal, as ratepayers are already paying most of it via an expiring special variation¹² ▼ the year-on-year increase will be around 3.51% for the averages in all rate categories ▼ the increase appears to be within ratepayers’ capacity to pay ▼ the council has a financial hardship policy.¹³

⁶ Micromex Research, *Cessnock City Council Community Research*, August 2012, p 8 and pp 12-14.
⁷ Cessnock City Council, *Section 508(2) Special Variation Application 2013/14 –Part B* (Cessnock Application Part B), p 3.
⁸ Cessnock Application Part B, p 7.
⁹ Cessnock Application Part B, p 10.
¹⁰ Cessnock City Council, *Long Term Financial Plan 2011-2021*, March 2011, p 113.
¹¹ The options were presented in fact sheets, at community consultations and in media. An example of the options is provided in Cessnock Application Part B, Attachment 6.
¹² Cessnock Application Part B, p 31.
¹³ Cessnock Application Part B, Granting of Rates on Pensioner Rebates Policy (Attachment 16); Rates Interest Waiver Policy (Attachment 17); and Rates Subsidies to Organisations Policy (Attachment 18).

Criterion	IPART findings
4. Latest available Delivery Program and Long Term Financial Plan (LTFP) must show evidence of realistic assumptions.	The council's assumptions are realistic, both in the Delivery Program and LTFP. ¹⁴ It has prepared updated financial forecasts for its application. ¹⁵
5. Productivity improvements and cost containment strategies realised in past years must be explained, as well as plans to realise savings over the proposed special variation period.	The council provided examples of past and planned cost and productivity gains, albeit not quantified. ¹⁶
6. Other relevant matters.	None.

1.3.1 Need for and purpose of the special variation

Improvement of the council's road network was previously identified as a priority in the council's Community Strategic Plan (adopted 2010) and Delivery Program (adopted 2011).¹⁷ The road network contributes significantly to the local economy, particularly the tourism and wine making industries, which rely mainly on road transport.¹⁸

1.3.2 Community awareness and engagement

The council engaged with its community and found general support for a continuing special variation for the purpose of the road program. A community survey in July 2012 indicated that, of 400 randomly selected community members:

- ▼ 76% were at least 'somewhat supportive' and 56% were at least 'supportive' of the council 'continuing the special rate variation'¹⁹
- ▼ 86% thought it was at least 'somewhat important' that the council be 'allowed to continue the special rates levy for roads' and 65% thought this was at least 'important'.²⁰

¹⁴ Cessnock Application Part B, p 37.

¹⁵ Revised financial forecasts – base case scenario (Cessnock Application Part B, Attachment 23), and Revised financial forecasts – discontinue SRV scenario (Attachment 24).

¹⁶ Cessnock Application Part B, pp 38–41.

¹⁷ Cessnock City Council, *Cessnock 2020 Community Plan*, June 2011, p 18 and Cessnock City Council, *Delivery Program and Operational Plan 2010*, p 51.

¹⁸ Cessnock Application Part B, p 10.

¹⁹ Micromex Research, *Cessnock City Council Community Research*, August 2012, p 62.

²⁰ Micromex Research, *Cessnock City Council Community Research*, August 2012, p 8.

Other methods of community consultation included:

- ▼ 4 community information sessions
- ▼ an advertisement and feedback form in the main local newspaper
- ▼ a media release to newspaper and radio
- ▼ fact sheets and a supplementary community feedback survey at council venues, community events and on the council's website.²¹

1.3.3 Impact on ratepayers

The council has also considered the community's capacity to pay. The residents of the Local Government Area have an average income level that is higher than the average for comparable councils. Offsetting this, it has a relatively low socio-economic (SEIFA) ranking and residential rates that are high relative to Group 4 and NSW averages.²² However, as the special variation will mean that average rates increase by around the same as the rate peg, it seems likely the community has the capacity to pay.

1.4 What does our decision mean for the council?

Our decision means that Cessnock City Council can increase its general income by about \$2.7m in 2013/14.²³ Of this, \$1.0m is due to the rate peg and \$1.7m is due to the 6.05% increase above the rate peg.

The increase above the rate peg will be incorporated into the council's revenue base for 1 year only. After 2013/14, the rate base will decrease by \$1.7m, unless we approve further special variations.

Table 1.3 Impact of approved special variation on Cessnock City Council's income in 2013/14

Adjusted notional general income 2012/13 (\$)	Annual increase in general income (%)	Annual increase in general income (\$)	Permissible general income 2013/14 (\$) ^a
28,517,395	9.45	2,694,893	31,211,739

^a Permissible general income refers to the maximum general income that the council can generate in the year. It equals the previous year's notional general income level adjusted for any expiring special variation, other adjustments (prior year catch ups, excesses, valuation objections and income adjustments for Crown land) plus the annual dollar increase permitted by the proposed special variation percentage.

Source: Cessnock Application Part A, Worksheets 1 and 4.

²¹ Cessnock Application Part B, pp 18 and 22, and Cessnock City Council, Council Report PM18/2013 (see Cessnock Application Part B, Attachment 15).

²² See Appendix B.

²³ Cessnock Application Part A, Worksheet 1.

1.5 What does our decision mean for ratepayers?

If the council changes its rates as indicated in its application, the average rates paid by most ratepayer categories would rise by around 3.5% in 2013/14.²⁴ This is significantly lower than the total increase in general income of 9.45% for this year. This is because the approved special variation will allow the council to continue an existing special variation that was due to expire.

Table 1.4 sets out the proposed average impact of rate increases on all affected ratepayer categories, based on the council's application. The actual impact on rates is a matter for the council to decide, consistent with our determination.

We note that in 2012, the NSW Valuer General issued revaluations of land in the Cessnock Local Government Area, which are to be used for rating purposes in 2013/14. As a result, increases or decreases in rates for individual ratepayers may be significantly affected by changes in relative valuations. IPART was unable to accurately determine the size of possible effects on particular ranges of property values.²⁵

²⁴ See Table 1.4.

²⁵ Cessnock Application Part B, p 28.

Table 1.4 Impact of approved special variation on Cessnock City Council's average rates in 2013/14, by ratepayer category

	2012/13 ^a	2013/14
Average residential rates – general (\$)	974	1,008
\$ Increase		34
% Increase		3.51
Average residential rates - rural (\$)	1,684	1,743
\$ Increase		59
% Increase		3.51
Average business rates (\$)	3,174	3,286
\$ Increase		112
% Increase		3.51
Average farmland rates - general (\$)	2,269	2,349
\$ Increase		80
% Increase		3.51
Average farmland rates – mixed use (\$)	6,211	6,452
\$ Increase		241
% Increase		3.88
Average farmland rates – low intensity (\$)	1,239	1,283
\$ Increase		44
% Increase		3.52
Average farmland rates – business rural(\$)	5,133	5,299
\$ Increase		165
% Increase		3.22
Average mining rates (\$)	130,289	134,871
\$ Increase		4,582
% Increase		3.52

^a 2012/13 is included for comparative purposes.

Source: Cessnock Application Part A, Worksheet 5.

A Cessnock City Council's Program of Expenditure

The additional income of \$1.7m from the special variation will be used for continued maintenance and improvement of the council's roads network. The resealing and rehabilitation of regional and local roads will extend the useful lives and reduce the rate of deterioration of these assets.

Table A.1 indicates what percentage, and Table A.2 indicates what dollar amounts, of the funding will be spent on each activity, and on which type of road.

Table A.1 Apportionment of funds from special variation (%)

	Reseal	Reseal with heavy patch	Rehabilitation
Regional road	0	40	0
Urban local collector road	12	12	0
Rural local collector road	8	8	20
Total	20	60	20

Source: Cessnock Application Part B, p 8.

Table A.2 Apportionment of funds from special variation (km)

	Reseal	Reseal with heavy patch	Rehabilitation
Regional road	0	4.0	0
Urban local collector road	3.0	1.0	0
Rural local collector road	2.5	1.0	0.25
Total	5.5	6.0	0.25

Source: Cessnock Application Part B, p 8.

Given the amount and temporary nature of the special variation, we consider the level of detail provided by the council to be sufficient. A more detailed list of projects is unavailable as the council reports that it is upgrading its road management systems.²⁶

²⁶ Email from Cessnock City Council to IPART, 28 March 2013.

B Comparative indicators

Table B.1 Select comparative indicators for Cessnock City Council, 2011/12

	Cessnock City Council	DLG Group 4 average ^a	NSW average
General profile indicators			
Area (km ²)	1,963	-	-
Population	52,493	-	-
General Fund expenditure from continuing operations (\$m)	64.2	-	-
General Fund operating revenue per capita (\$)	1,127	1,414	2,011
Rates revenue as % total General Fund income (%)	58.3	40.6	45.7
Average rate indicators^b			
Average rate – residential (\$)	934	840	685
Average rate – business (\$)	2,789	3,023	2,552
Average rate – farmland (\$)	1,867	1,735	2,123
Socio-economic/capacity to pay indicators^c			
Average annual income for individuals, 2010 (\$)	45,092	41,104	44,140
Growth in average annual income, 2006-2010 (% pa)	4.0	3.2	3.0
Ratio of average residential rates 2011/12, to average annual income, 2010 (%)	2.1	2.1	1.6
SEIFA, 2011 (NSW rank; 153 least disadvantaged)	28		
Outstanding rates and annual charges ratio (incl water and sewerage charges) (%)	4.8	5.7	7.0
Productivity indicators^d			
FTE staff	259	315	293
Ratio of population to FTE	203	125	126
Average cost per FTE (\$)	87,498	74,599	74,438
Employee costs as % ordinary expenditure (General Fund only) (%)	33.7	37.1	36.8
Consultancy/contractor expenses (\$m)	3.8	5.3	6.9
Consultancy/contractor expenses as % ordinary expenditure (%)	5.6	6.7	9.3

^a DLG Group 4 is a category of Urban Small to Medium Regional Town or City councils with a population of up to 70,000. This group comprises 30 councils including Albury, Armidale Dumaresq, Bathurst, Orange, and Clarence Valley.

^b Average rate levels equal the total rates revenue collected from a given rate category divided by the number of assessments in that category.

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

^d Based upon total council operations and finances ie, General Fund and if applicable, Water and Sewer and other funds. There are difficulties in comparing councils using this data due to differences in the scope of councils' activities and measurement methods across councils.

Note: General Fund refers to all council activities except Water and Sewer and, in some cases, other activities eg, airports.

Source: DLG, unpublished comparative data, 2011/12; ABS, *National Regional Profiles*, NSW, November 2011; ABS, *Regional Population Growth*, July 2012; ABS, *Estimates of Personal Income for Small Areas, Time Series, 2005-06 to 2009-10*, February 2013; and ABS, *Socio Economic Indexes for Areas (SEIFA) 2011*, March 2013.