



Independent Pricing and Regulatory Tribunal

# **Kempsey Shire Council's application for a special variation for 2014/15**

under section 508A of *Local Government Act 1993*

**Local Government — Determination**  
June 2014





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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 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.

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 set by the Office of Local Government (OLG),<sup>1</sup> and may allow special variations under either section 508A or 508(2) of the *Local Government Act 1993* (the Act).

Kempsey Shire Council applied for a multi-year special variation from 2014/15, under section 508A. The council requested annual increases ranging from 10.0% to 4.0% over the next 4 years, or a cumulative increase of 37.54% by 2017/18. After assessing its application, we decided to approve the variation as requested. We made this decision under section 508A of the Act.

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## Box 1.1 The Guidelines for 2014/15

We assess applications for special variations using criteria in the *Guidelines for the preparation of an application for a special variation to general income*, issued by the OLG.

The Guidelines adopt the same criteria for applications for a special variation under either section 508A or 508(2) of the *Local Government Act 1993*.

The Guidelines emphasise the importance of the council's Integrated Planning and Reporting (IP&R) 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. As a result, for most criteria, the IP&R documents (eg, Delivery Program and Long Term Financial Plan) must contain evidence that supports a council's application for a special variation.

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Our decision enables the council to pursue its Delivery Program 2013-2017, which it adopted after extensive consultation on its Integrated Planning and Reporting (IP&R) documents and the proposed special variation.

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<sup>1</sup> Division of Local Government, Department of Premier and Cabinet, *Guidelines for the preparation of an application for a special variation to general income for 2014/15*, September 2013 (the Guidelines). Effective 24 February 2014 the Division of Local Government became the Office of Local Government.

## 1.1 Our decision

We determined that Kempsey Shire Council may increase its general income by the annual percentages shown in Table 1.1. The annual increases incorporate the rate peg to which the council would otherwise be entitled (2.3% in 2014/15 and an assumed 3.0% in each of the following years). The cumulative increase of 37.54% is 25.76% more than the rate peg over the 4-year period.

After the last year of the special variation (2017/18), the increase will remain permanently in the council's rate base.

The annual increases in the dollar amounts reflect the percentage increases we have approved and any adjustments to the council's general income that occur as a result of various catch-up and valuation adjustments.

**Table 1.1 IPART's determination on Kempsey Shire Council's special variation for 2014/15 to 2017/18**

Year	Increase approved (%)	Cumulative increase approved (%)	Annual increase in general income (\$)	Permissible general income (\$)
Adjusted notional income 30 June 2014				14,082,585
2014/15	9.3	9.30	1,267,907	15,350,492
2015/16	10.0	20.23	1,535,049	16,885,542
2016/17	10.0	32.25	1,688,554	18,574,096
2017/18	4.0	37.54	742,964	19,317,060

**Source:** Kempsey Shire Council, *Section 508A Special Variation Application 2014/15 - Part A* (Kempsey Application Part A), Worksheet 1 and IPART calculations.

We have attached conditions to this decision, including that the council use the income raised through the special variation for purposes consistent with those set out in its application. Box 1.2 summarises these conditions.



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## **Box 1.2 Conditions attached to the approved special variation**

IPART's approval of Kempsey Shire Council's application for a special variation over the period from 2014/15 to 2017/18 is subject to the following conditions:

- ▼ The council uses the additional income from the special variation for the purpose of addressing its infrastructure backlog, primarily on road and bridge works, as listed in Appendix A.
  - ▼ The council reports in its annual report for each year from 2014/15 to 2023/24 on:
    - expenditure consistent with the council's application and listed in Appendix A, and the reasons for any significant differences from the proposed expenditure
    - the outcomes achieved as a result of the actual program of expenditure.
  - ▼ The council reports to the Office of Local Government by 30 November each year on its compliance with these conditions.
- 

## **2 What did the council request and why?**

Kempsey Shire Council applied to increase its general income by a cumulative 37.54% over the 4-year period from 2014/15 to 2017/18, and to permanently incorporate this increase into its general income base.

Two years ago, Kempsey Shire Council applied for a multi-year permanent increase of 16.05% in 2012/13, 14.33% in 2013/14 and 8.29% in 2014/15. The council received a partial approval for a special variation increase of 11.37% in 2011/12 to be retained permanently to fund road works and maintenance.<sup>2</sup>

At that time, we approved a partial increase because we found the council did not satisfactorily meet the applicable criteria. The council demonstrated a need for the special variation but it did not meet the legislative requirements for their Integrated Planning and Reporting (IP&R) documents and did not demonstrate community support for the proposed rate increases (previously required by the criteria for multi-year increases). We also considered the impact of multi-year increases to ratepayers to be significant. The available data found the community had a lower than average capacity to pay the rate increases with comparable councils.

The council has undertaken further community consultation and has prepared comprehensive IP&R documents. The council has reapplied for a special variation in 2014/15.

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<sup>2</sup> Independent Pricing and Regulatory Tribunal of NSW (IPART), *Kempsey Shire Council's application for a special variation 2012/13 – Determination*, June 2012.

In 2014/15 the council estimated that if its requested special variation is approved, its permissible general income will increase from \$14.08m in 2013/14 to \$19.32m in 2017/18. This will generate additional revenue of \$10.0m above the rate peg increase over the period from 2014/15 to 2017/18.<sup>3</sup>

The council intends to use the additional revenue above the rate peg to address its infrastructure backlog (currently \$120.2m),<sup>4</sup> while maintaining the community's desired levels of service.

During the 4-year special variation period, the council will spend the proposed special variation of \$10.0m on roads and bridge works,<sup>5</sup> while maintaining the community's desired levels of service.

More detail on the council's proposed program of expenditure to 2023/24 is provided in Appendix A.

### 3 How did we reach our decision?

We assessed Kempsey 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 a range of comparative data about the council, set out in Appendix B.

Kempsey Shire Council has applied on the basis of its adopted IP&R documents, in particular its Delivery Program 2013-2017, Ten Year Financial Plans 2014/15 to 2023/24 and Asset Management Plan (AMP) Community Infrastructure 2014.

The rate increases for which the council has applied are significant, and we carefully 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.

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<sup>3</sup> Kempsey Shire Council, *Section 508A Special Variation Application 2014/15 – Part A* (Kempsey Application Part A), Worksheet 1.

<sup>4</sup> Kempsey Shire Council, *Kempsey Shire Council's Financial Statements 2012/13* (Appendix to Annual Report 2012-13 – Special Schedule 7 – Condition of Public Works, June 2013, p 16.

<sup>5</sup> Kempsey Shire Council, *Section 508A Special Variation Application 2014/15 – Part B* (Kempsey Application Part B), pp 9-10.

On balance, we found that the application met the criteria. In particular, we found that:

1. The need for the proposed special variation to address the infrastructure backlog (for roads and bridge works), while maintaining the community's levels of service is demonstrated in the council's IP&R documents, and reflects community priorities.
2. The council provided evidence that the community is aware of the need for and extent of the rate rise, and that it acknowledged the community's concerns about the proposed special variation.
3. The impact of the proposed rate rises on ratepayers is significant. However, the purpose and need for the special variation is in line with community priorities.
4. The council made realistic assumptions concerning its projected service delivery and budget. \
5. The council reported productivity savings in past years, and indicated its intention to realise further efficiencies and savings during the special variation period.

Table 3.1 summarises our assessment against the criteria.

The majority of the submissions received by the council opposed the special variation. We consider the proposed rate increases are significant but the council has demonstrated a clear need for the additional income. Therefore, on balance we consider the special variation is justifiable.

**Table 3.1 Summary of IPART’s assessment against criteria in the Guidelines**

Criterion	IPART findings
<p>1. Need for and purpose of the special variation must be clearly articulated in the council’s IP&amp;R documents. Evidence could include community need/desire for service levels/projects and limited council resourcing alternatives, and the assessment of the council’s financial sustainability made by the NSW Treasury Corporation (TCorp). The LTFP must include scenarios both with and without the special variation.</p>	<p>The council’s IP&amp;R documents demonstrate the need for and purpose of the proposed special variation to address its infrastructure backlog and to maintain the community’s desired levels of service.</p> <p>The council’s infrastructure backlog as at June 2013 was \$120.2m.</p> <p>With the special variation the council’s Ten Year Financial Plans projects an operating deficit of 32.3% in 2017/18. Without the special variation the operating deficit would be 41.1%.</p> <p>TCorp assessed Kempsey Shire Council to be in a weak and deteriorating operating position, with projected continuous operating deficits. TCorp recommended the council not take on any further borrowings (on top of the LIRS Round 2 funding granted in 2013).</p>
<p>2. Evidence that the community is aware of the need for, and the extent of, the proposed rate rises. The IP&amp;R documents should clearly explain the rate rise, canvas alternatives to the rate rise, the impact of any rises on the community, and the council’s consideration of community capacity and willingness to pay higher rates. The council should demonstrate use of an appropriate variety of engagement methods to raise community awareness and provide opportunities for input.</p>	<p>The council has been undertaking community consultation since 2010. It has maintained community awareness since its 2012/2013 special variation through local advertisements, online information and a ratepayer letter.</p> <p>The council has identified and implemented efficiencies and savings, but believes the special variation is the only option to fund the infrastructure backlog and maintain the community’s desired levels of service.</p> <p>The council received 58 submissions to the proposed special variation. Of these, 45 opposed, 4 supported and 9 requested additional information on the special variation. The council has acknowledged its ratepayers’ concerns. The additional funding from the proposed special variation aligns with the community’s priorities.</p> <p>IPART received and considered 41 written submissions to the proposed special variation. These submissions mostly oppose the special variation. IPART also received a petition with 4,255 signatures.</p>
<p>3. Impact on affected ratepayers must be reasonable, having regard to current rate levels, existing ratepayer base and the proposed purpose of the variation. The council’s IP&amp;R process should establish that proposed rate rises are affordable, having regard to the community’s capacity to pay.</p>	<p>The proposed rate increases will increase the average residential rate by \$313 over 4 years. This is a significant increase. We note that the large part of the increases is in the first 3 years with only a small increase in the 4th year.</p> <p>The council currently has lower average rates (to comparable councils and other Group 4 councils) and a hardship policy in place.</p> <p>Kempsey Shire has a low SEIFA ranking (of 4), and a large proportion of the population is aged over 65 (19.8%). The pensioner profile and labour force participation rates are comparable to neighbouring councils. The council also has a low outstanding rates ratio.</p> <p>We consider, on balance the impact of the rate</p>

Criterion	IPART findings
4. Delivery Program and LTFP must show evidence of realistic assumptions.	<p>increases are reasonable taking the need and purpose of the special variation into account.</p> <p>The council's Ten Year Financial Plans contain 2 scenarios – with and without a special variation. The assumptions about its infrastructure backlog and need to maintain current service levels appear realistic. This is backed by the council's AMP and Delivery Program.</p> <p>We note that that depreciation is high and is increasing at the same rate for both scenarios, despite the asset base growing at a higher rate under the special variation scenario.</p>
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.	<p>The council has undertaken a range of efficiency savings over the past 4 years. The council has identified further savings and efficiencies, by putting a freeze on all discretionary spending, adjusting service levels where no negative impact will occur and recreational and sporting facilities to provide fewer, better quality services.</p>
6. IPART's assessment of the size and resources of the council, the size of the increase, current rate levels and previous increases, the purpose of the special variation and other relevant matters.	N/A

**Note:** References for information in this table are not included here to avoid duplication but are provided in the sections below which discuss our findings in more detail.

**Source:** Kempsey Application Part B; Kempsey Shire Council, *Kempsey Shire Council Ten Year Financial Plans 2014/15 to 2023/24*; NSW Treasury Corporation (TCorp), *Kempsey Shire Council, Financial Assessment, Sustainability and Benchmarking Report*, March 2013; and OLG, unpublished data.

The sections below discuss our findings for some criteria in more detail.

### 3.1 Need for and purpose of the special variation

We consider that the council has met this criterion. The need for and purpose of the requested special variation is set out in the council's IP&R documents and is specifically identified in its Delivery Program, AMP and Ten Year Financial Plans. The special variation will allow council to:

- ▼ address the infrastructure backlog and undertake planned works
- ▼ maintain the community's desired levels of service
- ▼ take advantage of grant funding which may become available.<sup>6</sup>

<sup>6</sup> Kempsey Application Part B, p 6.

A detailed program of asset maintenance works is included in the council's Asset Management Plan.<sup>7</sup> The need for the special variation is demonstrated by the council's increasing asset renewal ratio and decreasing operating deficits, outlined in the Ten Year Financial Plans.<sup>8</sup>

Currently, Kempsey Shire Council has a significant operating deficit and cannot sustainably maintain its service levels. As a precautionary approach the council has already implemented efficiency savings and identified further savings and efficiencies, including:

- ▼ freezing all discretionary spending
- ▼ adjusting service levels where no negative impact will occur, such as reducing library hours of operation
- ▼ reviewing the council's recreational and sporting facilities to provide fewer but better quality services.<sup>9</sup>

Despite these efficiencies and savings the council is still facing a shortfall to fund infrastructure works and address the infrastructure backlog. The council has explored the impacts between the 2 scenarios (with a special variation and without a special variation), however, the council has limited alternative funding options. The council has also decided to limit its debt funding. The council's Community Strategic Plan (CSP)<sup>10</sup> states that the only other funding option to accommodate expenditure of this scale would be grant funding.<sup>11</sup>

We note the council is projecting operating deficits for the 10 years (2014/15 to 2023/24). The operating result is affected by the significant depreciation value.<sup>12</sup> However, the additional funding from the proposed special variation will have limited impact on the operating result.<sup>13</sup>

In 2014/15, with the proposed special variation the council is projecting an operating deficit of 40.4%, decreasing to 32.3% by 2017/18. Without the special variation the council projects an operating deficit of 43.6% in 2014/15, decreasing to 41.1% by 2017/18.<sup>14</sup>

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<sup>7</sup> Kempsey Shire Council, *Kempsey Shire Council Community Infrastructure Asset Management Plan*, February 2014, pp 204-209.

<sup>8</sup> Kempsey Shire Council, *Kempsey Shire Council Ten Year Financial Plans 2014/15 to 2023/14*, January 2014.

<sup>9</sup> Kempsey Shire Council, *Kempsey Shire Council Delivery Program 2013-2017*, January 2014, p 14.

<sup>10</sup> Kempsey Shire Council, *Macleay Valley 2036 Community Strategic Plan*, June 2013.

<sup>11</sup> Kempsey Application Part B, pp 11-25.

<sup>12</sup> The depreciation values under both scenarios (that is with and without the special variation) in the *Kempsey Shire Council Ten Year Financial Plan 2014/15 to 2023/24* (p 20) are significant. In 2014/15, the depreciation value is \$24.8m and increases by approximately 30% over the 10-year period.

<sup>13</sup> Kempsey Shire Council, *Kempsey Shire Council Ten Year Financial Plans 2014/15 to 2023/24*, pp 20-22.

<sup>14</sup> Kempsey Shire Council, *Kempsey Shire Council Ten Year Financial Plans 2014/15 to 2023/14*, January 2014, p 20 and IPART calculations.

As productivity improvements and cost containment strategies have been undertaken over the past 4 years, the council believes the special variation represents the best solution to address the infrastructure backlog and maintain the community's desired levels of service.<sup>15</sup>

### TCorp Assessment

NSW Treasury Corporation (TCorp) assessed Kempsey Shire Council to be in a weak and deteriorating operating position.<sup>16</sup> In 2012, the council reported an infrastructure backlog of \$113.8m, representing 13.9% of the council's total infrastructure asset value.<sup>17</sup> As at 30 June 2013, the infrastructure backlog had increased to \$120.2m (or 14.4%).<sup>18</sup>

TCorp observed that the council:

- ▼ is in a 'weak' financial position with a 'negative' outlook
- ▼ has posted consecutive operating deficits
- ▼ has a debt service ratio below the TCorp benchmark and has limited capacity to use further borrowings, on top of the \$5.6m subsidised loan for the Kempsey Business Corridor Project.<sup>19</sup>

The council received loan funding under the Local Infrastructure Renewal Scheme (LIRS)<sup>20</sup> in Round 2 for the revitalisation of the Kempsey Business Corridor. The funding (of \$5.6m) will restore the commercial corridor and hub of Kempsey after the town has been bypassed, leading to improved economic outcomes.<sup>21</sup>

### Essential road and bridge works

The council intends to use the proposed special variation to fund essential road and bridge works.<sup>22</sup> Of the council's \$120.2m infrastructure backlog, \$54.5m is for roads and bridges.<sup>23</sup>

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<sup>15</sup> Kempsey Application Part B, p 25.

<sup>16</sup> NSW Treasury Corporation (TCorp), *Kempsey Shire Council, Financial Assessment, Sustainability and Benchmarking Report*, March 2013, p 4.

<sup>17</sup> Kempsey Application Part B, p 7 and IPART calculations.

<sup>18</sup> Kempsey Application Part B, p 52 and Kempsey Shire Council, *Kempsey Shire Council's Financial Statements 2012/13 (Appendix to Annual Report 2012-13 – Special Schedule 7 – Condition of Public Works*, June 2013.

<sup>19</sup> Kempsey Application Part B, p 7.

<sup>20</sup> The Local Infrastructure Renewal Scheme provides councils with a subsidy in interest costs to make it affordable take out bank loans to fund projects.

<sup>21</sup> Kempsey Application Part B, p 8 and Office of Local Government, *Local Infrastructure Renewal Scheme Round 2 Project Descriptions and Community Benefits*, p 2.

<sup>22</sup> Kempsey Application Part A, Worksheet 6.

<sup>23</sup> Kempsey Application Part B, p 52 and Kempsey Shire Council, *Kempsey Shire Council's Financial Statements 2012/13 (Appendix to Annual Report 2012-13 – Special Schedule 7 – Condition of Public Works*, June 2013.

The council reviewed its assets and services in 2011, 2012 and 2013.<sup>24</sup> The *Community Infrastructure Asset Management Plan* outlines the condition and underfunding of the road and bridge network. The Delivery Program outlines the works program to be undertaken with the funds from the special variation.<sup>25</sup>

The assessment of the road network revealed 589 kilometres of sealed road, 578 kilometres of unsealed road and 168 bridges,<sup>26</sup> was rapidly deteriorating.<sup>27</sup> For example, in 2008 only 8.8% of the sealed road network was in poor condition or worse, this had grown to 39.9% in 2013.<sup>28</sup>

Over the next 10 years the council projects it will need \$23.2m on average per year to renew its existing infrastructure assets, including the road and bridge network. The council's Ten Year Financial Plans provides an average of \$7.2m annually for asset renewal, leaving a shortfall of \$16.0m. The Asset Management Strategy details actions to address the shortfall.<sup>29</sup> The special variation will yield an additional \$34.2m above the rate peg by 2023/24 to be used on road and bridge works.<sup>30</sup>

With the proposed special variation the council's asset renewal ratio is projected to increase from 31.7% in 2014/15 to 43.8% in 2017/18. Similarly, the council's building and infrastructure renewal ratio is projected to increase from 26.6% in 2014/15 to 38.0% in 2017/18.<sup>31</sup> We note these ratios are still below TCorp's benchmarks, however, it shows significant improvements over a 4-year period.

### 3.2 Community engagement and awareness

We consider that the council has met this criterion. The council has engaged with the community using a variety of methods and provided the opportunity for feedback.

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<sup>24</sup> Kempsey Application Part B, p 9.

<sup>25</sup> Kempsey Application Part B, pp 52-54.

<sup>26</sup> Kempsey Shire Council, *Kempsey Shire Council Community Infrastructure Asset Management Plan*, February 2014, p 12.

<sup>27</sup> Kempsey Application Part B, p 10 and Kempsey Shire Council, *Kempsey Shire Council Community Infrastructure Asset Management Plan*, February 2014, p 44.

<sup>28</sup> Kempsey Application Part B, p 10.

<sup>29</sup> Kempsey Application Part B, p 10.

<sup>30</sup> Kempsey Application Part A, Worksheet 6.

<sup>31</sup> Kempsey Shire Council, *Kempsey Shire Council Ten Year Financial Plans 2014/15 to 2023/14*, January 2014, p 23.



The council received numerous submissions from ratepayers, most of which opposed the proposed special variation. We note the council has acknowledged the community's concerns, but is proceeding with its special variation application as there are limited funding options available to it. IPART also received a petition (with 4,255 signatures) and a number of ratepayer letters who opposed the special variation. We have considered the petition and letters and the concerns they raise.

In 2011, the council developed a Community Engagement Strategy which sets out the consultation process from 2010 to 2013 to determine community priorities and inform the community of financial constraints of the council.<sup>32</sup>

### Community consultation and engagement

Kempsey Shire Council has undertaken community consultation over a 3 ½ year period, including consultation for its 2012/13 application. The council has maintained community awareness for the special variation and the extent of the proposed rate increases.

The council engaged with its community using a variety of methods including:

- ▼ 16 full page information advertisements in the Happynings from October 2013 to February 2014.
- ▼ A letter to ratepayers informing them of the proposed special variation on 24 January 2014.<sup>33</sup>
- ▼ Face-to-face community consultation at local shopping centres.
- ▼ Online information on the council's website and through Facebook. The council's website included online calculators made available to assist ratepayers in determining the actual increase that would occur.
- ▼ Regular feedback to the community on completed projects and a weekly works schedule since the approved 2012/13 special variation.
- ▼ Community surveys undertaken in 2008, 2011 and 2012.
- ▼ "Putting the Pieces Together" campaign in 2011 to provide feedback on surveys and to discuss what services could be delivered using the council's current funding levels if roads works are made a priority.
- ▼ Direct consultation with the business community through the Kempsey and District Chamber of Commerce to present the current situation and options to address community requirements.

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<sup>32</sup> Kempsey Application Part B, p 36.

<sup>33</sup> Kempsey ratepayer letter, *Information on why Council is seeking increased rate funding*, 24 January 2014.

- ▼ “Meet the Boss” campaign in October and November 2010, backed by a promotional multimedia strategy including advertisements in the local paper, the local free weekly magazine and on commercial radio.<sup>34</sup>

The consultation undertaken up until 2013 was used to develop the Macleay Valley Community Strategic Plan and the updated Delivery Program 2013-2017.<sup>35</sup>

The council included 2 scenarios in its Ten Year Financial Plans:<sup>36</sup>

- ▼ Option 1 - increase of 9% in 2014/15, increase of 10% in 2015/16 and 2016/17, and increase of 4% in 2017/18 including the rate peg.
- ▼ Option 2 – rate peg increases only.

The council adopted Option 1 as its preferred option as it requires the additional funding to address its infrastructure backlog and to maintain the community’s desired levels of service.<sup>37</sup> The council also considered that the community has the capacity to pay the proposed special variation.

The community’s priorities, as identified through the community surveys,<sup>38</sup> are road works and maintenance, and to maintain current service levels.<sup>39</sup> The council has limited alternative funding options, although it has implemented efficiencies and savings, including not taking on further debt.<sup>40</sup>

### Outcome of consultation on rate rise

The council received 58 letters (including emails) to the proposed special variation. Of these, 45 letters opposed, 4 letters supported and 9 requested additional information on the special variation. The letters raised issues including:

- ▼ the community’s limited ability to pay the special variation, particularly those who are ‘poor’ or are pensioners
- ▼ the size and timeframe of the special variation
- ▼ the council’s lack of reduction of internal costs
- ▼ the council’s wasteful spending and inefficient operations, including staffing and productivity levels
- ▼ the poor condition of local roads.<sup>41</sup>

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<sup>34</sup> Kempsey Application Part B, pp 9 and 36-39.

<sup>35</sup> Kempsey Application Part B, p 37.

<sup>36</sup> Kempsey Shire Council, *Kempsey Shire Council Ten Year Financial Plans 2014/15 to 2023/14*, January 2014, p 20.

<sup>37</sup> Kempsey Application Part B, pp 6 and 11.

<sup>38</sup> Undertaken in 2008, 2011 and 2012.

<sup>39</sup> Kempsey Application Part B, p 39.

<sup>40</sup> Kempsey Application Part B, pp 25 and 79-81.

<sup>41</sup> Kempsey Application Part B, p 40 and Kempsey Shire Council, Community and Ratepayer Submissions.

The council acknowledged these concerns but proceeded with its special variation application for Option 1. We note the special variation is to be used to address the infrastructure backlog, primarily roads and bridges.

#### Written submissions made to IPART

IPART received a petition with 4,255 signatures opposing the proposed special variation. The council also received the petition, however, it cannot be confirmed if the signatories are from ratepayers or residents in Kempsey Shire.<sup>42</sup>

IPART also received 41 written submissions from ratepayers about the proposed special variation. These submissions mostly opposed the special variation. The main issues the submissions raised include:

- ▼ the rate increases are significant and would be unaffordable for pensioners to pay
- ▼ the council is not adequately managing and spending its money wisely, including wasteful spending and inefficiencies
- ▼ the council misled ratepayers on the proposed rate increases during the consultation period
- ▼ the Shire's high unemployment rate and the impact the increased rates will have on the community.<sup>43</sup>

We note that the council had considered ratepayers' submissions. We consider the proposed rate increases are significant, however, the council has demonstrated a clear need for the additional income. On balance, we consider the special variation is justifiable.

### 3.3 Reasonable impact on ratepayers

We consider that the impact of the special variation will be significant because all rates will increase by 37.54% over the 4-year period of the proposed special variation. However, on balance we consider the special variation should be approved based on its intended purpose which aligns with community priorities.

#### The council's consideration of impact on ratepayers

The council considered the average rates in comparison to neighbouring councils, shown in Table 3.2. As the council's average rates (across all rating categories) are typically lower than neighbouring council rates<sup>44</sup> this may indicate a capacity to pay.

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<sup>42</sup> Kempsey Application Part B, p 40.

<sup>43</sup> Written submissions made to IPART (letter, email and portal) from a selection of ratepayers and residents.

<sup>44</sup> Kempsey Shire Council, *Kempsey Shire Council Delivery Program 2013-2017*, January 2014, p 20.

**Table 3.2 Average rates to neighbouring councils**

Average rate	Kempsey Council	Port Macquarie-Hastings Council	Nambucca Council	Bellingen Council	Coffs Harbour Council	Greater Taree Council
Residential	<b>668</b>	907	736	779	804	788
Business	<b>1,464</b>	3,000	1,489	900	3,590	2,740
Farmland	<b>1,307</b>	1,583	1,566	1,694	1,463	1,355

Source: Kempsey Application Part B, p 64.

The council considers the proposed special variation would increase residential rates by \$4.13 per week<sup>45</sup> averaged over the 4-year period. The council has considered the community's capacity to pay the proposed special variation, noting:

- ▼ lower than average rates to neighbouring councils,<sup>46</sup> particularly for residential and farmland rates
- ▼ a comparable pensioner profile to neighbouring councils
- ▼ lower outstanding rates and annual charges ratio compared to other OLG Group 4 and neighbouring councils
- ▼ a similar labour force participation rate to the Mid-North Coast Region.<sup>47</sup>

We also noted that Kempsey Shire Council also proposes to increase rates for domestic waste management services, water supply services and sewerage services. To 2017/18, on average annually domestic waste management services will increase annually by 3%, water supply services will increase by 5% and sewerage services will increase by 7.5%.<sup>48</sup>

### Our assessment of impact on ratepayers

As discussed in Section 2, the council also received a partial approval for a permanent increase in 2012/13 of 11.37% for roads and bridge infrastructure. The council has reapplied for a special variation in 2014/15 to further address the infrastructure backlog for roads and bridge works. However, we note the issue of reasonableness and the impact on the community will still be significant.

If approved, average rates will increase by:

- ▼ Residential - \$78 in 2014/15 and \$313 by 2017/18
- ▼ Business - \$183 in 2014/15 and \$738 by 2017/18

<sup>45</sup> Kempsey Application Part B, p 47.

<sup>46</sup> The Mid-North Coast Region comprises of Kempsey, Clarence Valley, Coffs Harbour, Bellingen, Nambucca, Hastings and Greater Taree local government areas.

<sup>47</sup> Kempsey Application Part B, pp 63-66.

<sup>48</sup> Kempsey Application Part A, Worksheet 5a.

- ▼ Farmland – \$147 in 2014/15 and \$595 by 2017/18.<sup>49</sup>

The average increases proposed for residential, business and farmland rates are high and at the upper level of reasonableness. 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.

In addition to the 2012/13 special variation, the council received a special variation increase in 2003/04 of 8.28% temporarily for 5 years, and an increase in 2008/09 of 7.7% temporarily for 10 years for an environmental levy.

An analysis of average rates as a proportion of average individual income for neighbouring councils is shown in Table 3.3. This demonstrates the council has low average residential rates. We also found despite the low SEIFA ranking, the council has a higher than average individual income than Bellingen and Nambucca Councils, and rates as a proportion of incomes was the lowest for these councils.

We consider the special variation to be reasonable, as while Kempsey Shire has a low SEIFA ranking the area has comparable socio-economic indicators to the Mid-North Coast Region. These include:

- ▼ a low rates base
- ▼ the proportion of rates to individual income is low
- ▼ the council has a Hardship Policy in place for exceptional circumstances.<sup>50</sup>

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<sup>49</sup> Kempsey Application Part B, Worksheet 5a.

<sup>50</sup> Kempsey Shire Council, *Hardship Relief to Ratepayers Policy, Procedure 5.4.4*, March 2012.

**Table 3.3 Kempsey Shire Council – average residential rates and individual income**

Council	Average residential rate (\$) <sup>a</sup>	Average individual income (\$) <sup>b</sup>	SEIFA ranking	Average rates/average income (%)
<b>Kempsey Shire</b>	668	32,976	4	2.03
Bellingen Shire	779	32,648	55	2.39
Clarence Valley	784	33,467	13	2.34
Coffs Harbour City	804	36,684	70	2.19
Greater Taree City	788	35,296	12	2.23
Nambucca Shire	736	31,286	9	2.35
Port Macquarie-Hastings Shire	907	37,236	75	2.44

<sup>a</sup> Average residential rates are for 2011/12 and equal total ordinary rates revenue divided by the number of residential assessments

<sup>b</sup> Average individual income is for 2010 and includes income from all sources, excluding government pensions and allowances.

**Source:** OLG, unpublished data; ABS, *Socio-Economic Indexes for Areas (SEIFA) 2011*, March 2013 and IPART calculations.

In 2011/12, the council also had a lower outstanding rates ratio than other Group 4 and neighbouring councils.<sup>51</sup> By 2012/13 the council's outstanding rates ratio had increased by 0.5%<sup>52</sup> (from 4.9% to 5.4%). This is still lower than the OLG Group 4 and NSW averages.

## 4 What does our decision mean for the council?

Our decision means that Kempsey Shire Council may increase its general income over the 4-year period from \$14.1m in 2013/14 to \$19.3m in 2017/18 (see Table 1.1). After 2017/18, all other things being equal, the council's permissible general income will increase by the annual rate peg unless we approve a further special variation.<sup>53</sup>

The council estimates that over these 4 years, the additional rates revenue will be \$10.0m above the rate peg.<sup>54</sup> The special variation will allow the council to address its infrastructure backlog, primarily on the road and bridge network, and to maintain current service levels.

<sup>51</sup> Kempsey Application Part B, p 63.

<sup>52</sup> Kempsey Shire Council, *Kempsey Shire Council Financial Statements 2012/13*, Note 13a(i), p 48.

<sup>53</sup> General income in future years cannot be determined with precision because it will be influenced by several factors apart from the rate peg. Those factors include changes in the number of rateable properties and adjustments for previous under- or over-collection of rates. The OLG is responsible for monitoring and ensuring compliance.

<sup>54</sup> Kempsey Application Part A, Worksheet 1.

## 5 What does our decision mean for ratepayers?

We set 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, Kempsey Shire Council indicated that it intended to increase rates over the 4 years uniformly for each category as discussed above.

The council has calculated that on average:

- ▼ residential rates will increase by a cumulative 37.54%, or by \$78 in the first year, and by \$313 over 4 years
- ▼ business rates will increase by a cumulative 37.54%, or by \$183 in the first year, and by \$738 over 4 years
- ▼ farmland rates will increase by a cumulative 37.54%, or by \$147 in the first year, and by \$595 over 4 years.<sup>55</sup>

Table 5.1 shows how much average rates are expected to increase in each main ratepayer category. The actual impact of our determination on rates is a matter for the council to decide, however, the overall impact across the ratepayer base will be consistent with our determination.

**Table 5.1 Indicative annual increases in average rates as a result of the determination**

Year	Residential		Business		Farmland	
	%	\$	%	\$	%	\$
2014/15	9.3	78	9.3	183	9.3	147
2015/16	10.0	91	10.0	215	10.0	173
2016/17	10.0	100	10.0	236	10.0	191
2017/18	4.0	44	4.0	104	4.0	84

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

<sup>55</sup> Kempsey Application Part A, Worksheet 5a.







## **Appendices**



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

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

The council will indicate in its Annual Reports how its actual expenditure has evolved relative to its proposed program of expenditure.

**Table A.1 Income and proposed expenditure related to the special variation (\$)**

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Special variation income above rate peg	985,781	2,069,889	3,334,573	3,620,352	3,728,962	3,840,831	3,956,056	4,074,738	4,196,980	4,322,889
Roads and bridge capital expenditure	985,781	2,069,889	3,334,573	3,620,352	3,728,962	3,840,831	3,956,056	4,074,738	4,196,980	4,322,889

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

## B Comparative 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.

In Table B.1 we show how selected indicators for Kempsey Shire Council have changed over the 3 years to 2011/12.

**Table B.1 Trends in selected indicators for Kempsey Shire Council, 2009/10 to 2011/12**

	2009/10	2010/11	2011/12
<b>Productivity (labour input) indicators<sup>a</sup></b>			
FTE staff (number)	265	275	287
Ratio of population to FTE	111	107	102
Average cost per FTE (\$)	66,091	65,869	67,530
Employee costs as % operating expenditure (General Fund only) (%)	32.2	42.7	30.2
Consultancy/contractor expenses (\$m)	0	0	0
Consultancy/contractor expenses as % operating expenditure (%)	0	0	0

<sup>a</sup> Based upon total council operations that include General Fund, Water & Sewer and other funds, if applicable.

**Source:** OLG, unpublished data.

In Table B.2 we compare the selected published data on Kempsey Shire Council with the average of the councils in the OLG Group and with NSW councils as a whole.

**Table B.2 Select comparative indicators for Kempsey Shire Council, 2011/12**

	Council	OLG Group 4 average <sup>a</sup>	NSW average
<b>General profile</b>			
Area (km <sup>2</sup> )	3,371	-	-
Population	29,188	-	-
General Fund operating expenditure (\$m)	54.0	-	-
General Fund operating revenue per capita (\$)	1,302	1,441	2,011
Rates revenue as % General Fund income (%)	36.8	40.1	45.7
<b>Average ordinary rate indicators<sup>b</sup></b>			
Average rate – residential (\$)	668	837	685
Average rate – business (\$)	1,460	2,976	2,552
Average rate – farmland (\$)	1,304	1,724	2,123
<b>Socio-economic/capacity to pay indicators<sup>c</sup></b>			
Average annual income for individuals, 2010 (\$)	32,976	40,981	44,140
Growth in average annual income, 2006-2010 (% pa)	2.9	3.2	3.0
Average residential rates 2011/12 average annual income, 2010 (%)	2.0	2.1	1.6
SEIFA, 2011 (NSW rank; 153 is least disadvantaged)	4	-	-
Outstanding rates & annual charges ratio (incl water & sewerage charges) (%)	4.9	5.7	7.0
<b>Productivity (labour input) indicators<sup>d</sup></b>			
FTE staff (number)	287	310	293
Ratio of population to FTE	102	121	126
Average cost per FTE (\$)	67,530	74,511	74,438
Employee costs as % operating expenditure (General Fund only) (%)	30.2	37.4	36.8
Consultancy/contractor expenses (\$m)	-	5.1	6.9
Consultancy/contractor expenses as % operating expenditure (%)	-	6.7	9.3

<sup>a</sup> OLG Group 4 is classified as a Urban Small/Med Regional Town/City with a population of up to 70,000. The group comprises 30 councils of which the most comparable to Kempsey Shire Council are Lismore City Council and Port Stephens Council.

<sup>b</sup> Average rates equal total ordinary rates revenue divided by the number of assessments in each category.

<sup>c</sup> Average annual income includes income from all sources excluding government pensions and allowances.

<sup>d</sup> Based upon total council operations. 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, *National Regional Profiles, NSW*, November 2011; ABS, *Regional Population Growth*, July 2012; ABS, *Estimates of Personal Income for Small Areas, 2005-06 to 2009-10*, February 2013; and ABS, *Socio-Economic Indexes for Areas (SEIFA) 2011*, March 2013.