

Kiama Municipal 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 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.

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).

Kiama Municipal Council applied for a special variation in 2013/14 of 9.74%. 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.

We note that the effective increase in the council's average ordinary rates will be in line with the rate peg of 3.4% in 2013/14. This is because the new special variation will continue 2 existing special variations, one of which was due to expire on 30 June 2013 and the other on 30 June 2014.

1.1 Our decision

We determined that Kiama Municipal Council may increase its general income by 9.74% in 2013/14, including the rate peg of 3.4% that is available to all councils. This increase may be permanently incorporated into its general income base.

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

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

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 IPART’s decision on Kiama Municipal Council’s application for a special variation in 2013/14 (%)

Component	Amount
Increase for roads asset renewal	6.34
Rate peg increase	3.4
Total increase	9.74

Box 1.1 Conditions attached to the approved special variation for Kiama Municipal Council

IPART’s approval of Kiama Municipal 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 each rating year from 2013/14 to 2022/23 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.
- ▼ The council reports to the Division of Local Government by 30 November each year on its compliance with these conditions.

We note that the council will be reducing its general income for 2013/14 by \$756,539 (the value of 2 special variations that are to be replaced). This reduction in the council’s general income shall take place before the council’s general income is increased in rating year 2013/14 in accordance with this determination.

1.2 What did the council request and why?

Kiama Municipal Council requested a special variation of 9.74%,² comprising:

- ▼ a 6.34% increase for roads asset renewal
- ▼ the rate peg of 3.4%.

The council estimated that the 6.34% increase above the rate peg will generate \$0.78m in additional revenue in 2013/14, and \$8.96m over 10 years.³ This increase will replace 2 existing special variations, 1 of which is due to end on 30 June 2013, and the other which would otherwise end on 30 June 2014.⁴ The

² Kiama Municipal Council, *Section 508(2) Special Variation Application - Part A* (Application Part A), Worksheets 1 and 4.

³ Application Part A, Worksheet 6.

⁴ Application Part A, Worksheet 4.

revenue from these existing special variations is used to fund maintenance and asset renewal.

The council's proposed program of expenditure on roads asset renewal is set out in Appendix A.⁵

1.3 How did we reach our decision?

We assessed Kiama Municipal Council's application against criteria in the Guidelines, under 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.⁶ We also considered a range of comparative data about the council that is set out in Appendix B.

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

1. demonstrated a need for the revenue for roads asset renewal
2. provided evidence that the community is aware of the need for and extent of the rate rise
3. provided evidence the impact on ratepayers was reasonable, given that it continues 2 expiring special variations that are already reflected in rate levels
4. made realistic assumptions concerning its budget
5. has achieved productivity savings in past years, and plans to realise additional savings over the proposed special variation period.

The council is in the process of revising its IP&R documents. It has advised us that these documents will contain the proposed program of expenditure, and budget scenarios, with and without the proposed special variation.⁷ The council's current Long Term Financial Plan (LTFP) 2012–2022 contains estimates for a scenario where the 2 expiring special variations are permanently retained in the rating base, consistent with its application.⁸

⁵ Appendix A is the proportion of the roads asset renewal works to be funded by this special variation. Kiama Municipal Council, *Strategic Asset Management Plan 2011/12 to 2020/21* contains the road-by-road detail of this program.

⁶ 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.

⁷ Kiama Municipal Council, *Section 508(2) Special Variation Application - Part B* (Application Part B), pp 6-7.

⁸ Kiama Municipal Council, *Long Term Financial Plan 2012 to 2021, Scenario 1*.

Table 1.2 summarises our findings against each of the criteria.

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 need to continue the existing special variations for road asset renewal expenditure is identified in the council’s current LTFP and TCorp’s assessment.⁹ This expenditure is consistent with community priorities identified in 2009¹⁰ and the council’s current Asset Management Plan.</p> <p>Evidence of need includes:</p> <ul style="list-style-type: none"> ▼ the reported \$9.1m backlog of expenditure required to bring assets to a satisfactory condition¹¹ ▼ TCorp’s identification of underspending on asset renewal and maintenance¹² ▼ the projected operating deficits (before capital) in 9 of the 10 years from 2012/13 to 2021/22.¹³ <p>In recent years the council has pursued alternative revenue sources, such as land development sales. TCorp identified that this is not an indefinitely sustainable funding source.¹⁴</p> <p>Rates and annual charges currently account for only 30% of the council’s general fund revenue.¹⁵</p>
<p>2. Evidence that the 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>The council provided information to make the community aware of the need to continue the 2 expiring special variations through:</p> <ul style="list-style-type: none"> ▼ articles in its quarterly newsletter “Kimunico” ▼ newspaper advertisements and community news pages ▼ a factsheet on the council’s website ▼ radio, newspaper, and television interviews with the Mayor ▼ an information kiosk at a local shopping centre.¹⁶

⁹ NSW Treasury Corporation, *Kiama Municipal Council Financial Assessment and Benchmarking Report* (TCorp Report), 3 October 2012, pp 4-5.

¹⁰ Kiama Municipal Council, *Community Consultation 2009, Updated Preliminary Results*, 20 April 2010, p 11; Application Part B, p 8.

¹¹ Kiama Municipal Council, *Special Schedules for the year ended 30 June 2012, Special Schedule 7*, p 5.

¹² TCorp Report, pp 4-5.

¹³ Kiama Municipal Council, *Long Term Financial Plan 2012 to 2021, Scenario 1*. This scenario includes the continuation of the 2 existing special variations.

¹⁴ Application Part B, pp 12-13; TCorp Report, pp 4-5.

¹⁵ Application Part B, p 13.

¹⁶ Application Part B, p 17.

Criterion	IPART findings
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>Neither the council nor IPART received any community feedback or submissions about the council's special variation application.</p> <p>Although the council's average residential rates are among the highest in the state, the impact of the special variation will be reasonable given that:</p> <ul style="list-style-type: none"> ▼ As it is replacing 2 existing special variations already included in current rates, the effective increase will be the rate peg of 3.4% in 2013/14.¹⁷ ▼ The LGA's relatively high SEIFA ranking (129, where 153 is the least disadvantaged) and low outstanding rates ratio¹⁸ suggests the community has the capacity to pay. ▼ The council has a financial hardship policy in place to assist those having difficulty in paying their rates.¹⁹
4. Latest available Delivery Program and Long Term Financial Plan (LTFP) must show evidence of realistic assumptions.	<p>The LTFP for 2012-2022 is based on realistic assumptions for the rate peg, labour costs and other income and expenditure items.²⁰ The assumptions proposed by the council for its revised LTFP are also realistic.²¹</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>Prior to its 2010/11 special variation application, the council had achieved a range of productivity improvements and efficiencies which provided ongoing savings.²² The council has also made savings in insurance and used National Broadband Network grants to improve business and library processes.²³ A committee of councillors and staff is investigating further opportunities to increase efficiencies and reduce costs.²⁴</p>
6. Other relevant matters.	None.

¹⁷ Application Part B, pp 21-22; Application Part A, Worksheet 5.

¹⁸ ABS, *Socio-Economic Indexes for Areas (SEIFA) 2011*, March 2013; DLG, unpublished comparative data, 2011/12.

¹⁹ Application Part B, p 24.

²⁰ Application Part B, pp 28-29; Kiama Municipal Council, *Long Term Financial Plan 2012 to 2022*, pp 1-7.

²¹ Application Part B, pp 28-29.

²² Application Part B, p 30; Kiama Municipal Council, *2010/11 Section 508A Special Variation Application Form - Part B*, pp 19-21.

²³ Application Part B, p 31; and additional information provided to IPART on 10 April 2013.

²⁴ Additional information provided to IPART on 10 April 2013.

As the table above indicates, we assessed that the council has taken sufficient steps to make the community aware of its current application to continue the 2 expiring special variations, and thus has met criterion 2. However, we note there has been no community input or feedback on this application to either the council or IPART.

The council undertook a comprehensive consultation process with its community in late 2009 and early 2010 on a proposal to seek a special variation of 6.5% per annum (inclusive of the rate peg) over the 4-year period from 2009/10, and to permanently retain these increases in its income base.

In 2009/10, it applied for the first 6.5% increase under section 508(2) of the Act. The Minister for Local Government approved the increase, but decided that the council could retain it for 5 years only.

In 2010/11, the council applied for the 3 further increases of 6.5% per annum under section 508A of the Act (which if approved, would have been permanently retained in its general income base). The Minister approved only 1 of these increases under section 508(2), and decided the council could retain it for 3 years only. This was because the council had not completed its IP&R process and documents, as required for applications under section 508A.²⁵

This year, the council made its current application to continue these 2 existing special variations, which are due to expire on 30 June 2013 and 30 June 2014, and permanently incorporate them in its income base. This would effectively cancel the last year of the 2009/10 special variation. It also indicated in its application that it has decided not to seek the additional 2 increases of 6.5% it originally proposed and consulted its community on, partly because it has been successful in applying for low interest loans under the NSW Government's Local Infrastructure Renewal Scheme (LIRS), which has enabled it to bring forward asset renewal works.²⁶

If the council were to request another special variation in the future, it would need to undertake further engagement with the community.

1.4 What does our decision mean for the council?

Our decision means that Kiama Municipal Council can increase its general income by an estimated \$1.2m in 2013/14,²⁷ and permanently incorporate this in its general income base. After this year, its general income will increase by the annual rate peg unless we approve further special variations.²⁸

²⁵ Kiama Municipal Council, *Special Rate Variation Fact Sheet*.

²⁶ Kiama Municipal Council, *Special Rate Variation Fact Sheet*.

²⁷ Application Part A, Worksheet 1.

²⁸ The actual general income in future years will be influenced by a range of factors apart from the rate peg, including the number of rateable properties and adjustments for previous under-collection or over-collection of rates made by councils.

Table 1.3 Impact of approved special variation on Kiama Municipal 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
12,331,980 ^b	9.74	1,201,135	13,620,729 ^c

^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.

^b The 2012/13 adjusted notional general income level is not part of the council's application and is only included for comparative purposes.

^c Includes a prior year catch up of \$87,614.

Source: 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, average rates across all categories will increase by the rate peg of 3.4% in 2013/14:

- ▼ average residential rates will increase by \$44
- ▼ average rural residential rates will increase by \$90
- ▼ average business rates will increase by \$24
- ▼ average commercial/industrial rates will increase by \$69
- ▼ average farmland rates will increase by \$62.²⁹

This is less than the increase in general income of 9.74% because the special variation allows the council to continue 2 expiring special variations already included in rates. If the special variation had not been approved, average rates would have decreased in 2013/14 and 2014/15 when these 2 special variations expired.

Table 1.4 sets out the impact on average rates in each ratepayer category, based on the council's application. The actual impact on particular categories of rates is a matter for the council to decide, consistent with our determination.

²⁹ Application Part A, Worksheet 5.

Table 1.4 Kiama Municipal Council – Indicative increases in 2013/14 as a result of the approved special variation for residential, business and farmland ratepayers

	2012/13 ^a	2013/14 ^b
Average residential rates (\$)	1,288	1,331
\$ Increase		44
% Increase		3.40
Average rural residential rates (\$)	2,643	2,733
\$ Increase		90
% Increase		3.40
Average ordinary business rates (\$)	719	743
\$ Increase		24
% Increase		3.41
Average commercial/industrial business rates (\$)	2,045	2,114
\$ Increase		69
% Increase		3.40
Business commercial/industrial minimum rates (\$)	634	643
\$ Increase		9
% Increase		1.42
Average farmland rates (\$)	1,825	1,887
\$ Increase		62
% Increase		3.41

^a 2012/13 is included for comparative purposes.

^b Due to rounding, numbers may not add.

Source: Application Part A, Worksheets 2, 3 and 5.

A Kiama Municipal Council – Program of Expenditure

The council intends to use the additional income above the rate peg from this special variation towards funding its roads asset renewal program, as set out in Table A.1.

Table A.1 Kiama Municipal Council Proposed Program of Expenditure 2013/14 to 2022/23 (\$)

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	Sum of 10 years
Roads Asset Renewal Program	781,848	805,303	829,463	854,346	879,977	906,376	933,567	961,574	990,422	1,020,134	8,963,011

Source: Application Part A, Worksheet 6.

B Comparative indicators

Table B.1 Select comparative indicators for Kiama Municipal Council, 2011/12

	Kiama Municipal Council	DLG Group 4 average ^a	NSW average
General profile indicators			
Area (km ²)	258	-	-
Population	20,832	-	-
General Fund expenditure from continuing operations (\$m)	47.1	-	-
General Fund operating revenue per capita (\$)	2,319	1,414	2,011
Rates revenue as % total General Fund revenue (%)	29.8	40.6	45.7
Average rate indicators^b			
Average rate – residential (\$)	1,208	840	685
Average rate – business (\$)	1,375	3,023	2,552
Average rate – farmland (\$)	1,814	1,735	2,123
Socio-economic/capacity to pay indicators^c			
Average annual income for individuals, 2010 (\$)	45,257	41,104	44,140
Growth in average annual income, 2006-2010 (% pa)	2.6	3.2	3.0
Ratio of average residential rates 2011/12, to average annual income, 2010 (%)	2.7	2.1	1.6
SEIFA, 2011 (NSW rank; 153 least disadvantaged)	129	-	-
Outstanding rates and annual charges ratio (incl water and sewerage charges) (%)	2.3	5.7	7.0
Productivity indicators^d			
FTE staff (number)	255	315	293
Ratio of population to FTE	82	125	126
Average cost per FTE (\$)	80,078	74,599	74,438
Employee costs as % ordinary expenditure (General Fund only) (%)	43.3	37.1	36.8
Consultancy/contractor expenses (\$m)	3.6	5.3	6.9
Consultancy/contractor expenses as % ordinary expenditure (%)	7.5	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 Bega Valley, Denilliquin, Shellharbour, Orange, Lismore and Great Lakes.

^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.

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; ABS, *Socio-Economic Indexes for Areas (SEIFA) 2011*, March 2013.

