

Ku-ring-gai 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).

Ku-ring-gai Council applied for a special variation in 2013/14 of 8.4%, of which 5.0% would be retained in the council's rate base for 5 years. The 5.0% would allow it to continue an existing special variation that is due to end on 30 June 2013.

After assessing the council's application, we decided to allow the council to retain the revenue from the special variation above the rate peg for 1-year, rather than 5 years as requested in the council's application. This is because the council had not made the community sufficiently aware of its intention to continue the levy for a further 5 years.

We made this decision under section 508(2) of the Act.

1.1 Our decision

We determined that Ku-ring-gai Council may increase its general income by 8.4% in 2013/14, including the rate peg of 3.4% that is available to all councils. The increase above the rate peg can 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 from the special variation to fund road renewal as set out in its application.

Table 1.1 sets out our decision and 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 Ku-ring-gai Council’s application for a special variation in 2013/14

Component	Amount
Increase to fund road renewal (1 year)	5.0
Rate peg increase	3.4
Total increase	8.4

Box 1.1 Conditions attached to the approved special variation

IPART’s approval of Ku-ring-gai 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 road works outlined in the council’s application for 2013/14 and summarised in the relevant column of Appendix A.
- ▼ The council reports in its annual report for 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.
- ▼ On 1 July 2014, the council is to reduce its 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.

The council will reduce its general income for 2013/14 by \$2,384,092 (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?

Ku-ring-gai Council requested a special variation of 8.4% for 2013/14,² comprising:

- ▼ a 5.0% increase for 5 years, to fund road renewal
- ▼ the rate peg of 3.4%.

The council estimated that the 5.0% increase above the rate peg would generate \$2.6m in additional revenue in 2013/14, and \$14.2m over 5 years. The increase to fund road renewal would continue an existing special variation that is due to end on 30 June 2013.³

² Ku-ring-gai Council, *Section 508(2) Special Variation Application 2013/14 – Part A* (Ku-ring-gai Application Part A), Worksheet 1.

³ Ku-ring-gai Application Part A, Worksheet 4. The special variation relates to part of an existing infrastructure levy that recovers revenue about equal to council’s infrastructure maintenance spending.

The council indicated that, over the 5 years to 2017/18, it would use the additional \$14.2m to help fund its proposed program of road renewal works that would renew its roads to the standard expected by the community.⁴ The council's proposed program of capital expenditure is set out in Appendix A.

1.3 How did we reach our decision?

We assessed Ku-ring-gai Council's application against the criteria in the Guidelines under the transitional arrangements. These arrangements give us the discretion, for 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 & Reporting (IP&R) documentation.⁵ We also considered a range of comparative data about the council that is set out in Appendix B.

We decided to approve the special variation for 1 year, instead of approving it for 5 years as requested by the council. The main reason for this decision was that the council did not adequately meet all aspects of criterion 2. In particular, we were not satisfied that the council had made the community sufficiently aware of the need for and extent of the rate rise.

The council submitted evidence indicating strong community support for the proposal from a sample of ratepayers. However, the broader community was not sufficiently informed and did not have the opportunity to provide feedback.

However, we found that the application did meet the other criteria. In particular, the council:

1. demonstrated a need for the additional revenue to fund road works
2. showed that the impact on ratepayers is reasonable and affordable
3. made realistic assumptions about its projected service delivery and budget
4. reported productivity savings in past years, and plans to realise additional savings over the period of the special variation.

On balance, we consider that the application should be approved for 1-year to enable the council to undertake further consultation with the community.

Table 1.2 summarises our assessment against the criteria. The sections below discuss our findings on some criteria in more detail.

⁴ Section 508(2) *Special Variation Application 2013/14 – Part B* (Ku-ring-gai Application Part B), pp 8-9.

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
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>The council demonstrated the need for the special variation by showing that it has a substantial backlog in road works and that the community would like to see the standard of local roads improved.</p> <p>The council’s financial position is otherwise sound.</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>The council did not use a sufficient variety of methods to engage the community to make it aware of the special variation. It conducted 2 surveys of 400 respondents each:</p> <ul style="list-style-type: none"> ▼ in June 2012 about community expenditure preferences⁶ ▼ in January 2013 about willingness to pay the special rate variation.⁷ <p>Community meetings on road spending mentioned the levy and it was noted in the Annual Report and Operating Plan, but neither explained the council’s intention to the wider community.</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>The impact is likely to be reasonable given that:</p> <ul style="list-style-type: none"> ▼ ratepayers are already paying the levy ▼ SEIFA ranking is highest in the state and average income levels are very high ▼ pensioners and households facing hardship are exempt from paying the levy⁸ ▼ the continuation of the levy was strongly supported – 88% of survey respondents were at least ‘somewhat supportive’.
4. Latest available Delivery Program and Long Term Financial Plan (LTFP) must show evidence of realistic assumptions.	<p>The council’s assumptions about the rate peg, the growth in labour and non-labour costs and the number of assessments are realistic in the context of the LTFP.⁹</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 reported some (limited) productivity and cost savings, including:</p> <ul style="list-style-type: none"> ▼ reduced water and energy use (savings not quantified) ▼ contracting out seasonal services (eg, tree works, street cleaning and grass cutting) saving \$350,000 pa.¹⁰
6. Other relevant matters.	None.

⁶ Ku-ring-gai Application Part B, Attachment 10.

⁷ Ku-ring-gai Application Part B, Attachment 11.

⁸ Ku-ring-gai Application Part B, p 23.

⁹ Ku-ring-gai Application Part B, p 28.

¹⁰ Ku-ring-gai Application Part B, pp 29-31.

1.3.1 Need for and purpose of the special variation

We are satisfied that the council has demonstrated a need for the requested additional revenue to fund road works over the next 5 years.

In its Long Term Financial Plan (LTFP), the council forecasts operating surpluses both with and without the special variation.¹¹ However, the council has an infrastructure backlog of \$172m which is much higher than the average of its peers (\$63m) and NSW councils as a whole (\$48m).¹²

At present, the council's roads have a replacement cost of \$370m, and 56% are in 'poor', 'very poor', or 'failed' condition.¹³ Community consultation has indicated that the community would prefer the condition of these roads to be improved to such an extent that they are all in a 'fair' (or level 3) condition.¹⁴ The council has estimated that the cost of doing this is an extra \$6.8m per annum for 10 years.¹⁵

Overall, TCorp assessed Ku-ring-gai Council's financial sustainability as 'sound' with a 'neutral' outlook.¹⁶ TCorp also considered that the council has the financial capacity to use debt as an alternative funding source. The council's policy is to only borrow where the expenditure generates a rate of return.¹⁷

The LTFP forecasts that with the special variation, capital expenditure on roads will increase by an average of about \$2.8m per year to 2017/18. The extra spending is designed to reduce the roads backlog and improve overall road condition to 'fair' as preferred by the community.¹⁸

1.3.2 Community awareness and engagement

We are not satisfied that the council took sufficient steps to make the community aware of the need to continue the existing levy for road renewal for a further 5 years.

¹¹ Ku-ring-gai Application Part B, Revised draft LTFP, emails from council, 30 April 2013.

¹² DLG, unpublished comparative data, 2011/12.

¹³ Ku-ring-gai Council, *Roads Asset Management Plan*, February 2013, p 59.

¹⁴ Ku-ring-gai Application Part B, p 6.

¹⁵ Correspondence from Ku-ring-gai Council, 9 May 2013.

¹⁶ NSW Treasury Corporation, *Financial Sustainability of the NSW Local Government Sector*, April 2013, p 18.

¹⁷ Ku-ring-gai Application Part B, p 12.

¹⁸ Ku-ring-gai Council, *Roads Asset Management Plan*, February 2013, p 59.

The council's application indicated that it conducted 2 surveys to assess the community's willingness to pay the proposed rates, but did not explain how it had made the community aware of its intention to continue the levy until 2017/18.¹⁹ In May 2012, we asked the council for more information about how it had sought to make the community aware of this intention. It indicated that it had:

- ▼ discussed road funding at a series of Ward Summits held from 11 to 20 February 2013²⁰
- ▼ undertaken 2 surveys of 400 people, of which 1 gauged willingness to pay the special variation to renew road infrastructure
- ▼ referred to continuing the levy in its 2011/12 Annual Report²¹
- ▼ included some references to the levy in selected tables in its Operating Plan, from which the intention to continue the levy can be deduced but which do not clearly explain this.²²

We considered that these methods were not sufficient to achieve widespread community awareness.

We suggest that the council could have used a range of other appropriate ways of raising community awareness, such as issuing a media release, including information in local papers (for example, in a statement by the Mayor) or with rates notices or on the council's website or in holding workshops.

1.4 What does our decision mean for the council?

Our decision means that Ku-ring-gai Council may increase its general income by an estimated \$4.4m in 2013/14.²³ In 2014/15, the council must reduce its income to the level that it would have been without the special variation, unless we approve further special variations.²⁴

¹⁹ Ku-ring-gai Application Part B, p 18.

²⁰ Correspondence from Ku-ring-gai Council, 10 May 2013.

²¹ Ku-ring-gai Council, *Annual Report 2012/13*, p 55.

²² Ku-ring-gai Council, *Delivery Program and Draft Operational Plan 2012-2013*, pp 81, 91, and 94.

²³ Ku-ring-gai Application Part A, Worksheet 1.

²⁴ The actual general income in future years will be influenced by a range of factors apart from the rate peg. These factors can include the number of rateable properties and adjustments for previous under-collection or over-collection of rates. The DLG is responsible for monitoring and ensuring compliance.

Table 1.3 Impact of approved special variation on Ku-ring-gai 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
52,408,733 ^b	8.4	4,402,334	56,812,792

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, a prior-year catch up amount of \$1,725, 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. It excludes revenue from the existing special variation that is due to end on 30 June 2013.

Source: Ku-ring-gai 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 would increase in 2013/14 by the amounts shown in Table 1.4. These rises are broadly in line with the 3.4% rate peg component of the special variation. Average residential rates would increase by around \$48, while average business rates would increase by around \$128.

These increases are as proposed by the council in its application. The actual impact on rates is a matter for the council to decide, consistent with our determination.

Table 1.4 Ku-ring-gai Council – Indicative impact of approved special variation on average rates by ratepayer category, 2013/14

	Average rate 2012/13 (\$) ^a	Increase (\$)	Increase (%)	Average rate 2013/14 (\$) ^a
Average residential rate ^b	1,267	48	3.75%	1,317
Residential minimum rate	458	15	3.28%	473
Average business rate ^b	4,341	128	2.96%	4,469
Business minimum rate	458	15	3.28%	473
Infrastructure levy	545	22	4.05%	567

a Includes the expiring special variation that will be continued for another year. All rates have been rounded to the nearest dollar.

b Average residential and business rates include all applicable ordinary and special rates. Special rates include the Infrastructure Levy, Environmental Levy, and the New Facilities Levy. The Infrastructure Levy comprises a significant proportion of average residential rates (43%).

Source: Ku-ring-gai Application Part A, Worksheet 5 and IPART calculations.

If we had not approved the continuation of the expiring special variation, average residential and business rates would fall by \$13 and \$78 respectively.

A Ku-ring-gai Council's Proposed Program of Expenditure

The following table summarises the proposed program of works funded by the additional income from the proposed special variation, of which only 2013/14 is funded by the special variation that we have approved. The council has provided us with a detailed list of roads for each year.

Table A.1 Ku-ring-gai Council – Proposed road renewal expenditure 2013/14 to 2017/18

	2013/14	2014/15	2015/16	2016/17	2017/18	Total
No of road works	51	44	44	51	50	
Total (\$m)	2.6	2.7	2.8	2.9	3.0	14.1

Source: Ku-ring-gai Application Part A, Levy Works Programs, Attachment 14.

B Comparative indicators

Table B.1 Select comparative indicators for Ku-ring-gai Council, 2011/12

	Ku-ring-gai Council	DLG Group 3 average ^a	NSW average
General profile indicators			
Area (km ²)	85	-	-
Population	114,704	-	-
General Fund expenditure from continuing operations (\$m)	90.2	-	-
General Fund operating revenue per capita (\$)	858	817	2,011
Rates revenue as % total General Fund revenue (%)	58.6	55.7	45.7
Average rate indicators^b			
Average rate – residential (\$)	591	790	685
Average rate – business (\$)	3,359	4,911	2,552
Average rate – farmland (\$)	n/a	2,124	2,123
Socio-economic/capacity to pay indicators^c			
Average annual income for individuals, 2010 (\$)	85,479	51,108	44,140
Growth in average annual income, 2006-2010 (% pa)	2.0	3.1	3.0
Ratio of average residential rates 2010/11, to average annual income, 2010 (%)	0.7	1.6	1.6
SEIFA, 2011 (NSW rank; 153 least disadvantaged)	153	-	-
Outstanding rates and annual charges ratio (incl water and sewerage charges) (%)	2.9	3.3	7.0
Productivity indicators^d			
FTE staff (number)	443	581	293
Ratio of population to FTE	259	251	126
Average cost per FTE (\$)	76,494	85,120	74,438
Employee costs as % ordinary expenditure (General Fund only) (%)	37.6	41.8	36.8
Consultancy/contractor expenses (\$m)	21.5	15.5	6.9
Consultancy/contractor expenses as % ordinary expenditure (%)	23.9	14.3	9.3

^a DLG Group 3 is a category of Urban Large to Very Large Metropolitan Developed councils with a population greater than 70,000. This group comprises 17 councils including Warringah, Canada Bay and Randwick.

^b Average rate levels equal the total rates revenue collected from a given rate category divided by the number of assessments in that category. The DLG database only includes ordinary rates, so meaningful comparisons on rates cannot be made because special rates are a substantial part of total rates paid to Ku-ring-gai Council.

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

