

1.1. Finance and Assets Reports

1.1.1. FIN - 23/01/2023 - Application for a Special Rate Variation

Prepared by Ross Gurney - CFIO

Department Finance & Assets

Authorised by Chief Financial & Information Officer

Reference

Min. No. 22-147 Ordinary Meeting of Council held on 25 July 2022.

Min No. 22-180 Ordinary Meeting of Council held on 26 September 2022.

Min No. 22-227 Ordinary Meeting of Council held on 28 November 2022

Min No. 22-235 Ordinary Meeting of Council held on 28 November 2022.

Summary

In November 2022, the Council resolved to lodge an application for a Special Rate Variation (single-year permanent increase) of 45.7% to commence from 1 July 2023. The purpose of this report is to seek Council's resolution to submit the application.

The report also recommends that Council adopt the updated Integrated Planning & Reporting documents which have been placed on public exhibition for 28 days.

Commentary

At the 28 November 2022 meeting, Council resolved:

22 -235 RESOLVED

THAT Council:

1. Authorise the General Manager to notify the NSW Independent Regulatory and Pricing Tribunal of its intention to lodge an application under Section 508(2) of the NSW Local Government Act for a permanent Special Rate Variation (SRV) 34.3% increase (plus 3.7% rate peg) in 2023/24 for the primary purposes (based on IPART categories) of:
 - a. Improving financial sustainability;
 - b. Maintaining existing services; and
 - c. Reducing infrastructure backlogs for asset maintenance and renewals.
2. Commit to limiting any increase in the residential, farming and business (general) rating categories to 27.7% (including the 3.7% rate peg) with the balance of the SRV funds required to be levied against the business power generation sub-category, mining category and a new quarrying business sub-category or sub-categories.
3. Note that, in the event that the future fund proposal is not finalised prior to any SRV application to IPART being completed in January 2023, Option 1 would return to Council's original proposal of a 42% SRV (plus 3.7%) with \$1.092M added back to the power generation and mining rating categories.
4. Endorse the updated Integrated Planning & Reporting documents to be placed on public exhibition for 28 days. This will include the following plans:
 - a. [Supplementary Community Strategic Plan 2035](#).
 - b. [Supplementary Combined Delivery Program 2022– 2026 and Operational Plan 2022/23](#).
 - c. [Updated 2022-2032 Long Term Financial Plan](#).
 - d. [Updated 2022-2026 Workforce Plan](#).
 - e. [Updated 2022-2032 Strategic Asset Management Plan](#).
5. Note the Community Engagement Strategy Feedback Report which is included as an attachment.

Proposed Transformation Fund

The following was reported to the 28 November 2022 Ordinary meeting:

As a result of the consultation and collaboration, power generation and mining ratepayers have proposed to make part of their increased contributions (\$1.092M) directly into a future fund to support the community through economic transition. This would reduce the special variation amount from \$6.2M (based on 2022/23 notional yield) to \$5.1 million. Importantly, it does not significantly impact Council's financial sustainability under Option 1. Asset maintenance and renewal is fully funded for all asset classes.

In the event the future fund proposal is not finalised prior to any SRV application to IPART being completed in January 2023, Option 1 would return to Council's original proposal of a 42% SRV (plus 3.7%) with \$1.092M added back to the power generation and mining rating categories.

Despite the best efforts of all parties, a binding transformation fund agreement could not be finalised in the brief timeframe before the 23 January 2023 meeting. Any agreement would have required the inclusion of safeguards for all parties and legal review prior to execution. With Christmas closures affecting the three parties involved (including Council), there was insufficient time to negotiate agreements and undertake sufficient due diligence.

Accordingly, it is recommended that the 45.7% increase (including 3.7% rate peg) option, which the Council took to the community for consultation, be adopted for the purpose of the application. It is also recommended that Council continue to commit to close collaboration with the mining, power generation and quarrying industries to give full effect to the mutual beneficial outcomes that evolved during those consultations.

Updated Permissible General Income Summary

The table below (from the SRV application form) shows the proposed overall 42% SRV increase plus the rate peg for 2023/24. **The Council has committed to limiting any increase in the residential, farming and business (general) rating categories to 27.7% (including the 3.7% rate peg).**

PERMISSIBLE GENERAL INCOME SUMMARY FOR 2023-24

All dollars in nominal terms

Please check all income adjustments and expiring variation amounts with OLG before submitting the application.

Prior year Notional General Income		14,857,400
Less:	Expiry of a prior special variation	-
		<hr/>
Adjusted first year Notional General Income		\$ 14,857,400
Plus:	Rate peg - first year	3.70% 549,724
Plus:	na	0.00% 0
Plus:	Additional increase - first year	42.00% 6,240,108
Plus:	na	0.00% 0
Plus:	Crown Land adjustment - first year	0.08% 11,755
		<hr/>
Total special variation - first year	45.78%	\$ 6,801,587
Other First Year Adjustments:		
Plus/Minu	Prior year Catch-up/(Excess)	10,314
Minus:	Valuation Objections claimed in prior year	0
		<hr/>
	Total Adjustments	10,314
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First year Permissible General Income		\$ 21,669,300

Capacity to Pay

The consideration and shaping of the proposal to increase land rates has had significant regard for the community's capacity to pay. The analysis has been included in Council's adopted LTFP.

This is also a key SRV application criterion, with the need to demonstrate that the impact on affected ratepayers is reasonable and the increases are affordable.

Affordability and intergenerational equity were critical considerations in the external review of Council's rating policy. The review considered issues relating to the capacity to pay for various existing and potential rating categories and sub-categories. Comparative analysis was undertaken as a means of validating the findings.

Following inter-category analysis, the rating review recommended that a higher incidence of increased rating be placed on heavy industries (mining, quarrying, power generation). The particular methodology used by Council's expert consultants (FTG) in calculating an appropriate amount for each of these categories considered the consumption of Council resources by that category as well as intergenerational equity and affordability considerations. Council considered those recommendations and the methodology and evidence underpinning it in arriving at its position and the underlying material was published and referred to in the material provided during the consultation period.

A comparative larger yield from the heavy industries enabled a lower incidence of increased rating in the residential, farmland and business rating categories which are most impacted by cost of living and other affordability pressures. Also, as part of the refinement of the SRV scenario it was determined that the pensioner concession would be increased by 20% (\$50) to \$300 p.a. to further reduce the incidence of increased rating on pensioners.

Council considered a range of indicators (including SEIFA and outstanding rates and charges comparisons) to assess whether the proposed rate increases would be affordable for the community. A discussion of these considerations was fully set out in the LTFP.

Council also undertook intra-category analysis of the impact of the proposed SV on residential and business ratepayers by quartile and decile. Council adjusted the base amount of the proposed rating to ensure that the residential component became more progressive (a lower incidence in the lower two quartiles with lower land values). For example, the incidence in the first quartile in the residential category is 18.3% (excluding the further impact of the pensioner rebate which lowers that figure further). The incidence in the fourth quartile is 34%. The incidence in the first decile is 13.1% (which equates to an additional \$1.33 each week). The analysis also revealed that the proposed rating would not significantly impact incidence within the business category. This is largely because intra-category rating incidence within the business category is already very progressive within the top quartile of businesses in the business urban category paying 65% of the overall rating in that category.

Also, successive studies of the correlation between property prices and capacity to pay confirms that property prices are a reasonable indication of capacity to pay (see, for example, South Australian Centre for Economic Studies (2004), 'The Correlation Between Income and Home Values: Literature Review and Investigation of Data – Final'). It is for that reason that Council's administration is confident that structuring the base rate so as to ensure a more progressive incidence of the proposed increases will ensure significant capacity to pay issues are avoided.

Finally, and for abundant caution, Council commissioned specialist advisers to local government, Morrison Low, to conduct an assessment of the community's capacity to pay. This provides an objective and independent assessment. Similar detailed studies have assisted other NSW Councils with successful SRV applications.

The study compares and assesses the following items, provided information is accessible:

- Population and age profile,
- Average wages and jobs by industry/sub types,
- Unemployment, pensioner breakdown,
- Median weekly household income, SEIFA ranking, comparative income distribution and household debt,
- Business and agriculture economic value and/or grp and/or income,
- Changes in living expenses such as electricity, water and gas,
- Household stress,
- COVID-19 impacts on the community and industry,
- Outstanding rates, and
- Other relevant 2016 and 2021 ABS census data and other sources.

The draft capacity to pay study was received just prior to compilation of this report. It is being reviewed by the administration, but notwithstanding its status as draft it is included as an attachment to this report.

Public Exhibition of Integrated Planning & Reporting documents

Council was also required to amend its set of Integrated Planning and Reporting documents to reflect the proposed SRV. These were exhibited for public consideration and comment. No submissions were received during the public exhibition period.

The following Integrated Planning & Reporting documents are recommended for adoption -

- [Supplementary Community Strategic Plan 2035.](#)
- [Supplementary Combined Delivery Program 2022– 2026 and Operational Plan 2022/23.](#)
- [Updated 2022-2032 Long Term Financial Plan.](#)
- [Updated 2022-2026 Workforce Plan.](#)
- [Updated 2022-2032 Strategic Asset Management Plan.](#)

Councillor Feedback

Council's administration has gone to great lengths to extensively brief the Council about the many key aspects of this major initiative. Feedback has been appreciated, and all suggestions or requests for matters to be considered have been vigorously examined. See the below table -

Councillor Feedback	Officers Response
For the next two (2) years all income raised from the Special Rate Variation in excess of the 3.7% rate peg be allocated to the construction, renewal, repair and maintenance of roads including curbing and guttering, storm water drains and systems. The ratio of this expenditure to be 70% for roads and 30% for drains.	<p>The proposed SRV expenditure program for 2023/24 includes additional maintenance / renewal funding for roads (\$3.026M) and stormwater drainage (\$459K).</p> <p>If additional financial capacity is achieved via the SRV, there is merit in an impactful works program to address current backlogs in asset maintenance and renewal. The councillor feedback provides a valid way forward. It is also important, however, that asset management systems be brought to a very high standard. A balance will need to be struck to optimise the expenditure over the period of the LTFP.</p> <p>The administration will develop a range of options from which the Council could consider bringing forward some or all of the 2024/25 SRV expenditure program to achieve the intent of the councillor feedback in terms of front-loading</p>

	additional road and stormwater asset investment.
A review of current funding levels of community capacity-building initiatives through Council's Community Development programs to support other community sectors that are disproportionately impacted, such as low-income earners in the rental market.	<p>The adoption of the annual Operational Plan and budget provides opportunity to adjust emphasis and resources across the Council's many service areas.</p> <p>Councillors can bring forward requests for new initiatives as part of the annual budget preparation (currently underway). All requests can be considered by the administration and advice provided to the Council.</p> <p>Councillor Information Sessions on the draft budget and operational plan are scheduled to be held for the above purposes during March 2023.</p>
<p>A timeline for completing the required Asset Management Plans and their associated Service Plans be provided to Council.</p> <ul style="list-style-type: none"> • All Asset Groups identified as part of the Asset Management Plans. • Minimum resourcing levels to provide the appropriate level of condition and functions of assts be identified. • All material lifecycles provided for in the SRV funding inclusive of maintenance & renewal costs. 	Council's asset management plans are presently being optimised to ensure that interventions in asset renewal (and maintenance) are programmed to maximise the safety of the network foremost but, secondly, the value of each invested dollar. This work will be completed by the end of 2023. Council has also engaged NSW Public Works to conduct a comprehensive review of its Integrated Water Cycle Management Plan to ensure the operational optimisation of that community utility.
A 12-month review occurs relating to affordability issues, in particular the Pensioner Rebate.	A 12-month review relating to affordability will be undertaken and reported to the Finance Committee.
All cumulative small business rates / charges are reassessed.	Council sets its charges each year. Fees and charges which apply to small businesses will be considered as part of the preparation of the 2023/24 budget. As a feature of that process the Council can gauge cumulative impact.
Sewer and water dividends previously transferred to General Rates are utilised to address causal factors in urban sewerage systems failure, which is part of an ongoing and significant public health risk to our community.	<p>Council's water and sewerage services are operated as commercial businesses, and as such, are expected to meet the requirements of National Competition Policy. Government businesses are required to calculate Commonwealth tax equivalents. The payment of tax equivalents ensures that Government businesses do not have a net competitive advantage over their private sector counterparts due to their public ownership.</p> <p>The Council has an adopted policy which ensures that services operate under the principles of competitive neutrality. Previous resolutions on sewer dividends have been enacted.</p> <p>There are sufficient funds in the sewer reserve to address causal factors in urban sewerage systems failure. The consideration is the extent of funding that is directed to this aspect as opposed to other required sewerage system works. Business cases are currently being</p>

	finalised for the 2023/24 capital works program, including sewerage system works.
<p>A clear contract with the community is established that outlines, delivers and reports on annual programs of work, which are funded through the special rates variation funding and proposed future fund.</p>	<p>Operational Plan The Statement of revenue policy included in the operational plan must include the following statements:</p> <ul style="list-style-type: none"> • A statement with respect to each ordinary rate and each special rate proposed to be levied • In the case of a special rate - the purpose for which the rate is to be levied. <p>Council identifies the source of revenue and amount for projects and programs in the Operational Plan.</p> <p>Reporting</p> <ul style="list-style-type: none"> • Clause 203 of the Local Government (General) regulation requires that budget review statements and a revision of estimates must be reported to the council within 2 months after the end of each quarter (except the fourth quarter). <p>IPART Special Rate Variation Guidelines – 7.1 Reporting Mechanisms requires that the Annual Report include a:</p> <ul style="list-style-type: none"> • Report on activities funded via a special rate variation of general income including: <ul style="list-style-type: none"> ○ reporting requirements set out in the Instrument of Approval. ○ projects or activities funded from the variation. ○ outcomes achieved as a result of the project or activities. ○ A council's Annual Report must provide a report on the achievements through the Delivery Program. ○ The State of the City (4-yearly) report should also outline detailed performance indicators to report against the Delivery Program achievements in relation to the special variation.
<p>A clear strategy for advocacy to the Federal Government concerning Federal Assistance Grants and cost-shifting elements from the NSW Government is developed, actively pursued and reported to the Council twice yearly.</p>	<p>Council's administration is advocating for an address of the challenge of financial sustainability by other levels of government. Mostly this is done via industry representative groups such as ALGA and LGNSW. The Council resolved at its meeting held on 28 November 2022 (Min. 22-227) to endorse the following as one of its priorities for advocacy in the lead up to the NSW State Election.</p> <p>Sustainable Local Government</p> <ul style="list-style-type: none"> • Substantially review and reform the funding arrangements for local government to provide the sector with

	the capacity to meet the many challenges of the 21st century. A section for Advocacy will be included within Council's Integrated Planning and progress will be reported accordingly through this process.
A governance structure is established and provided to the Council relating to the operation and use of the proposed Future Fund.	This is supported.

Timeline

Upon resolution of Council, the administration will move to finalise the SRV application and lodge the application with IPART by the deadline of 3 February 2023.

Councillors have been provided with an (incomplete) draft of the application form prior to the 23 January 2023 meeting.

The final version of the application will be released by IPART as a public document.

The following is a summary of key dates (including IPART deadlines) for the SRV process moving forward.

Action	Date
Council decision to notify IPART of Council's intention to apply for a special rate variation or minimum rates increase – this being required to meet IPART's 29 November deadline.	28 November 2022
Council decision on final endorsement of special rate variation application to IPART.	January 2023
Special Rate Variation applications due with IPART	February 2023
Determinations announced for Special Rate Variation and Minimum Rate Variation by IPART	May 2023

The Council's administration will continue to deal with any enquiries and communicate effectively with the community about this key initiative throughout the next phases outlined above.

Policy Implications

Nil.

Financial Implications

As detailed in the Long-Term Financial Plan.

Legal and Risk Management Implications

Prudent action is required to manage extreme risks to the Council's long-term financial sustainability.

Attachments

1. Lithgow City Council - Capacity to Pay Report - Final [11.5.1.1 - 29 pages]

Recommendation

THAT Council:

1. Submit a Special Rate Variation application (by 3 February) under Section 508(2) of the NSW Local Government Act for a permanent Special Rate Variation (SRV) 45.7% increase (including 3.7% rate peg) in 2023/24 for the primary purposes (based on IPART categories) of:
 - a. Improving financial sustainability;

- b. Maintaining existing services; and
 - c. Reducing infrastructure backlogs for asset maintenance and renewals.
- 2. Reaffirm its commitment to limiting any increase in the residential, farming and business (general) rating categories to 27.7% (including the 3.7% rate peg) with the balance of the SRV funds required to be levied against the business power generation sub-category, mining category and a new quarrying business sub-category or sub-categories.
- 3. Adopt the updated Integrated Planning & Reporting documents. This includes the following plans:
 - a. Supplementary Community Strategic Plan 2035.
 - b. Supplementary Combined Delivery Program 2022– 2026 and Operational Plan 2022/23.
 - c. Updated 2022-2032 Long Term Financial Plan.
 - d. Updated 2022-2026 Workforce Plan.
 - e. Updated 2022-2032 Strategic Asset Management Plan.

Minute

11.5.1. FIN - 23/01/2023 - Application for a Special Rate Variation

23 -16 RESOLVED

THAT Council:

1. Submit a Special Rate Variation application (by 3 February) under Section 508(2) of the NSW Local Government Act for a permanent Special Rate Variation (SRV) 45.7% increase (including 3.7% rate peg) in 2023/24 for the primary purposes (based on IPART categories) of:
 - a. Improving financial sustainability;
 - b. Maintaining existing services; and
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2. Reaffirm its commitment to limiting any increase in the residential, farming and business (general) rating categories to 27.7% (including the 3.7% rate peg) with the balance of the SRV funds required to be levied against the business power generation sub-category, mining category and a new quarrying business sub-category or sub-categories.
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MOVED: Councillor D Goodwin
CARRIED

SECONDED: Councillor D Goodsell

