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| <b>Circular Details</b>     | 22-07/6 April 2022/A815377  |
| <b>Previous Circular</b>    | 22-03 Guidelines for Additional Special Variation (ASV) Process for 2022-23             |
| <b>Who should read this</b> | Councillors / General Managers / Rating and Finance Staff                               |
| <b>Contact</b>              | Policy Team / 02 4428 4100 / <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a> |
| <b>Action required</b>      | Information   |

**Subject****Guidelines for Additional Special Variation (ASV) Process for 2022-23**

**\*\*\* The ASV Guidelines set out in this circular apply in place of, and supersede, the ASV Guidelines issued in Circular 22-03 \*\*\***

**What's new or changing**

- The Independent Pricing and Regulatory Tribunal (IPART) will accept and process an additional round of 2022-23 Special Variation (ASV) applications from councils.
- For applications made under the ASV process, the ASV Guidelines set out in this circular apply in place of the [Guidelines for the preparation of an application for a special variation to general income](#) issued by the Office of Local Government in 2020.
- The ASV Guidelines set out in this circular apply in place of, and supersede, the ASV Guidelines issued in Circular 22-03.
- For more information on when these ASV Guidelines apply, please see 'What this will mean for your council' below.
- This one-off ASV round is available for the 2022-23 financial year only.
- This one-off ASV round is for councils that can show that the special variation will enable them to meet the obligations they set for 2022-23 in their 2021-22 Integrated Planning and Reporting (IP&R) documentation.
- Councils seeking a permanent special variation will also need to demonstrate the need for the special variation to be included in their rate base on an ongoing basis.
- Separately, IPART has also agreed to undertake a broader review of its rate peg methodology, including the Local Government Cost Index, with outcomes from the review expected to shape rate peg determinations in future years.

**What this will mean for your council**

- The ASV Guidelines set out in this Circular apply where council is applying for:
  - a temporary or permanent single year special variation for 2022-23 under section 508(2) of the *Local Government Act 1993* (the Act), AND
  - the percentage sought in the application is the lower of:
    - 2.5% (including population factor) or

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- the council's assumed 2022-23 rate peg as set out in its 2021-22 IP&R documentation (including population factor)
- For ASV applications made under the Guidelines set out in this Circular, councils will need to provide IPART with the following information:
  - Council's 2021-22 IP&R documentation identifying that council budgeted for an income increase above the percentage specified for the council for 2022-23 under section 506 of the Act; and
  - Where councils are applying for a permanent special variation, in addition to the above information, the council's 2021-22 IP&R documentation identifying that the council forecast an average Operating Performance Ratio (OPR) of 2% or lower over the next 5 years or, alternatively, evidence of need, for example, but not limited to, that the council needs to maintain a higher OPR so it can meet its capital funding requirements; and
  - Council has resolved to apply for the special variation under section 508(2) of the Act and that the resolution clearly states:
    - whether the resolution is for a temporary or permanent special variation under section 508(2) of the Act; and
    - the additional income that council will receive if the special variation is approved; and
    - why the special variation is required; and
    - that the council has considered the impact on ratepayers and the community in 2022-23 and, if permanent, in future years if the special variation is approved and considers that it is reasonable.
- The ASV application process is a simpler more targeted application process.
- IPART will not require councils to demonstrate community consultation or criteria outside of the processes outlined above. To demonstrate community consultation, IPART will consider the consultation undertaken through the IP&R process and consider the resolution to apply for a ASV meets the requirements outlined above.
- Revised application forms and further information will be released by IPART shortly.
- Under this ASV round of applications:
  - IPART will accept applications until 29 April 2022;
  - IPART will publish applications to enable community consultation for a period of at least three weeks; and
  - IPART will notify councils of its decision no later than 21 June 2022.

### Key points

- In late 2021, IPART announced the rate peg for the 2022-23 financial year was set at an increase of between 0.7% and 5.0%.
- Special variations provide an opportunity for councils to vary general income by an amount greater than the annual rate peg. However IPART's normal period for special variation applications in relation to the 2022-23 rate peg has now passed.
- The Office of Local Government and IPART recognise that, due to the delayed council elections and the determination of the 2022-23 rate peg at a lower rate than councils had forecast, councils may not have had sufficient time to prepare special variation application within the normal timeframe.

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This may result in some councils not having sufficient funds to pay for required infrastructure and services.

- As such the NSW Government and IPART have agreed to a one-off ASV round for the 2022-23 financial year only.
- This process is not intended to address applications from councils that require a special variation (above 2.5%) to achieve long term financial sustainability for reasons other than those set out in the criteria above, which should be addressed through the standard special variation process.
- [IPART's website](#) will be updated with revised application forms and information papers shortly.

**Where to go for further information**

- For further information please contact IPART on 02 9290 8400 or by email to [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au).

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