

E.15 SPECIAL CHARGE SCHEME POLICY

Engineering Services Directorate

EXECUTIVE SUMMARY

The purpose of this report is to adopt the amended Special Charge Scheme Policy which is due for review in accordance with Council's Corporate Policy Review process.

Document/s pertaining to this Council Report

- **Attachment 1** - Special Charge Scheme Policy (current).
- **Attachment 2** - Special Charge Scheme Policy 2014.
- **Attachment 3** - Special Charge Scheme Process Chart.
- **Attachment 4** - Special Rates and Charges - Ministerial Guidelines, Local Government Victoria.

LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES

- Local Government Act 1989
- The Macquarie Special Rates and Charges Manual, a Practice Guide for Local Government, Macquarie Local Government Lawyers, 2012

INTERNAL POLICIES / STRATEGIES / DOCUMENTS

Special Charge Scheme Process Chart (**Attachment 3**).

COUNCIL PLAN

Outcome:	3.0	Integrated Services and Infrastructure
Objective:	3.1	Deliver affordable modern community services and facilities through an integrated approach to planning and infrastructure development.
Strategy:	3.1.4	We will plan for the service needs of the Shire's changing demographic.

CONSULTATION

Following the review of the Policy, it is considered that the policy is still relevant and only requires minor amendments.

REPORT

Background

Council adopted the existing Urban Street Construction Policy on 21 March 2001, and the Rural and Rural Type Living Road Construction Policy was adopted on 18 August 1999. These two policies were then revoked with the amended Special Charge Scheme Policy which was adopted at the 22 December 2010 Council Meeting.

Discussion

Summary of Changes

Minor editorial changes were made to the revised policy including reference to the "Special Rates & Charges - Ministerial Guidelines", Local Government Victoria and "The Macquarie Special Rates and Charges Manual - A Practice Guide for Local Government", Macquarie Local Government Lawyers, 2012.

Proposal

It is proposed that Council adopts the revised Special Charge Scheme Policy as detailed in **Attachment 2**.

FINANCIAL CONSIDERATIONS

In implementing the Special Charge Schemes, Council will initially be responsible for outlaying all costs associated with the project. The costs, which could be significant, will require up front funding from Council before some costs can be recovered under legislation. This may take a number of years.

If Council decides to abandon a Special Charge Scheme, all costs up to abandonment will be borne by Council.

Financial capability to deliver Special Charge Schemes will be assessed annually as part of the annual budget process.

Special Charge Schemes are designed to apportion costs in cases when defined ratepayer beneficiaries can be identified in a catchment area. The application of Special Charge Schemes thereby reduces the costs of an asset provision to the broader community by Council.

RISKS

If Council determines to abandon a scheme at any stage, Council has three choices, being;

1. Fund the project from general rate revenue; or
2. Seek funds from other external sources such as State or Federal Government by way of grants; or

3. Not complete the project.

Not funding a project that could or should be subject of a special charge has the potential to limit Council's ability to fund other important capital works projects or delivery of other core Council services. The proposed policy assists Council in the funding of projects.

CONCLUSION

The Ministerial Guidelines suggests that Councils adopt a Special Charge Scheme Policy which is consistent with both the Local Government Act 1989, and the Ministerial Guidelines. This Policy review addresses these requirements.

RECOMMENDATION


That Council adopt the Special Charge Scheme Policy 2014 as detailed in Attachment 2.

STAFF DISCLOSURE OF INTEREST

Nil

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to page 151.

Attachment 1 Special Charge Scheme Policy 2010 (Current)



South Gippsland Shire Council

SPECIAL CHARGE SCHEME POLICY

Policy Number	C42	Directorate	Engineering Services
Council Item No.	E4	Department	Engineering
Council Adoption Date	22 December 2010	Primary Author	A Price
Revision Date	22 December 2013	Secondary Author	P Challis

POLICY OBJECTIVE

The objective of the Special Charge Scheme Policy is to provide a strategic framework to assist and guide Council to implement Special Charge Schemes for appropriate infrastructure by optimising its capacity to raise funds for the undertaking of works and services pursuant to Section 163 of the Local Government Act, 1989 in a fair, equitable, consultative and consistent manner.

POLICY FRAMEWORK

Council will implement Special Charge Schemes:

- In accordance with Section 163 of the Local Government Act, 1989 and "Special Rates and Charges Ministerial Guidelines, Local Government Victoria, September 2004" (as amended).
- If Council contributes a third (33.33%) or more of the cost of the Scheme without the support of affected property owners, or
- If there is a minimum of 70% of property owner support in writing to contribute financially to the works.

LEGISLATIVE PROVISIONS

A Special Charge Scheme is defined in accordance with Council's capacity to raise funds for undertaking works and services pursuant to Section 163 of the "Local Government Act 1989" and the procedure "Special Rates and Charges Ministerial Guidelines, September 2004".

DEFINITIONS

Special Benefit - is considered to be provided to a property if the proposed works or services will provide a benefit that is additional to or greater than the benefit to other properties.

POLICY STATEMENT

This policy operates within the legislative framework that recognises there is a responsibility on those deriving a special benefit from a built environment that they should financially contribute to the development of the infrastructure. On completion of the infrastructure works it is Council's responsibility to maintain the asset to appropriate standards.

Special Charge Scheme Policy Page 1 of 2

Attachment 1 Special Charge Scheme Policy 2010 (Current)



Council will assess its financial capability to deliver Special Charge Schemes in accordance with its Long Term Financial Plan and Capital Works Program.

RISK ASSESSMENT

- **Financial:** The policy provides an opportunity for Council to obtain funding for infrastructure projects that would otherwise require Council to fully fund or find other funding sources.
- **Openness and Transparency:** The policy provides for an open and transparent process to be undertaken in the implementation of Special Charge Schemes, taking into account adopted Community Plans. Transparency is achieved through community consultation with affected property owners and the general public.

IMPLEMENTATION STATEMENT

The responsibility for and implementation of the policy rests with the Engineering Services Directorate.


COUNCIL POLICY

COUNCIL POLICY

COUNCIL POLICY

COUNCIL POLICY

Attachment 2 Special Charge Scheme Policy 2014



South Gippsland Shire Council

SPECIAL CHARGE SCHEME

Policy Number	C42	Directorate	Engineering Services
Council Item No	TBA	Department	Engineering & Projects
Council Adoption Date	16 April 2014	Primary Author	Manager Engineering & Projects
Revision Date	April 2016	Secondary Author	Engineering Coordinator

POLICY OBJECTIVE

The objective of the Special Charge Scheme Policy is to provide a strategic framework to assist and guide Council to implement Special Charge Schemes for appropriate infrastructure by optimising its capacity to raise funds for the undertaking of works and services pursuant to Section 163 of the Local Government Act, 1989 in a fair, equitable, consultative and consistent manner.

Framework

Council will implement Special Charge Schemes:

- In accordance with Section 163 of the Local Government Act, 1989 and "Special Rates and Charges" Ministerial Guidelines, Local Government Victoria, September 2004" (as amended);
- If Council contributes a third (33.33%) or more of the cost of the Scheme without the support of affected property owners; or
- If there is a minimum of 70% of property owner support in writing to contribute financially to the works Scheme.

LEGISLATIVE PROVISIONS

A Special Charge Scheme is defined in accordance with Council's capacity to raise funds for undertaking works and services pursuant to Section 163 of the "Local Government Act, 1989" and the "Special Rates and Charges" Ministerial Guideline, Local Government Victoria.

DEFINITIONS

Definitions are in accordance with Section 163 of the Local Government Act, 1989 and "Special Rates and Charges" Ministerial Guideline, Local Government Victoria.

POLICY STATEMENT

This policy operates within the legislative framework that recognises there is a responsibility on those deriving a special benefit from a built environment that they should financially contribute to the development of the infrastructure. The policy enables Council to deliver essential infrastructure and/or services with fairness and equity by seeking contributions from those deriving the special benefit so that these special benefits do not need to be subsidised by general ratepayers. On completion of the infrastructure works, it is Council's responsibility to maintain the asset to appropriate standards.

Special Charge Scheme Policy

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Attachment 2 Special Charge Scheme Policy 2014



COUNCIL POLICY

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Council will assess its financial capability to deliver Special Charge Schemes in accordance with its Long Term Financial Plan and Capital Works Program.

RISK ASSESSMENT

- **Financial:** The policy provides an opportunity for Council to obtain funding for infrastructure projects that would otherwise require Council to fully fund or find other funding sources.
- **Openness and Transparency:** The policy provides for and requires an open and transparent process to be undertaken in the implementation of Special Charge Schemes, taking into account adopted Community Plans. Transparency is achieved through appropriate community consultation with affected property owners and the general public.

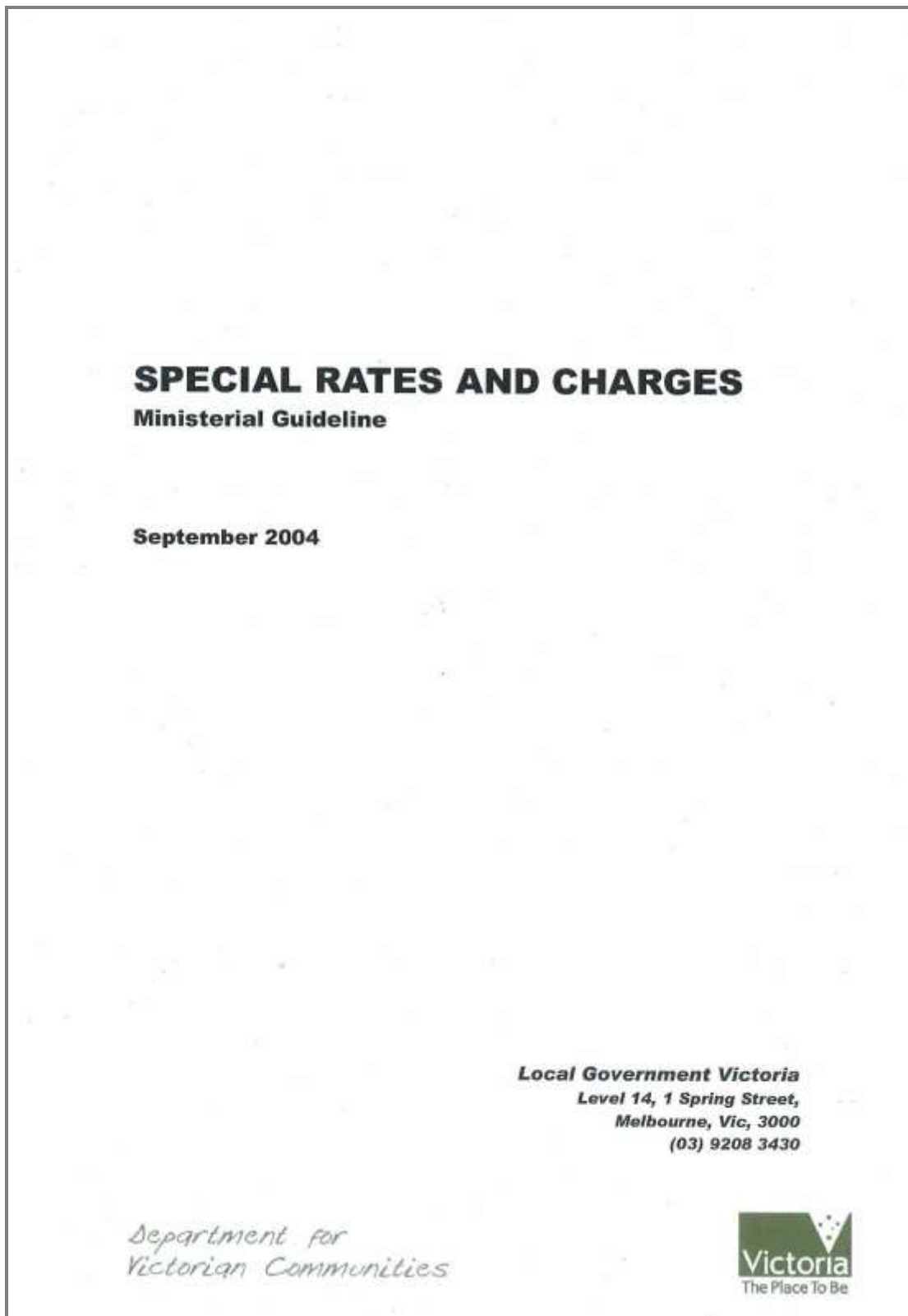
IMPLEMENTATION STATEMENT

The responsibility for and implementation of the policy rests with the Engineering Services Directorate. Documentation required to implement Special Charge Schemes should be prepared with reference to *"The Macquarie Special Rates and Charges Manual"*, a Practical Guide for Local Government, Macquarie Local Government Lawyers, 2012.

Attachment 3 Special Charge Scheme Process Chart

Special Charge Projects Process Chart	
(Section 163 – Local Government Act 1989)	
Stage	Description
<input checked="" type="checkbox"/> <i>Approval to prepare scheme</i>	Decision made to scheme following consideration of surveys of property owners and feed back from the community. Council may then place the project in the budget system or proceed immediately to prepare a scheme. Scheme preparation involves survey, design and preparation of an apportionment of cost.
<input type="checkbox"/> <i>Intention to Declare Scheme</i>	Report to Council providing information on scheme including advice of impending advertising of scheme and declaration of charge. Seeks Council approval by resolution to proceed with process.
<input type="checkbox"/> <i>Advertisement and Notification</i>	The scheme is advertised in the local newspaper and all allotted property owners are notified by mail. This advertisement and notification indicates Council's intention to 'declare' a scheme in a month's time and seeks submissions from affected property owners.
<input type="checkbox"/> <i>Submissions</i>	From the time of advertising, property owners have 28 days (as set down by the Act) to lodge submissions, either in support or opposition to the scheme. If intending to recover more than 2/3 of scheme cost from contributors, they have 28 days to object to the scheme.
<input type="checkbox"/> <i>Submissions Review Panel Hearing</i>	A Submissions Review Panel is convened (may be Committee of Councillors or whole Council) and meets to consider submissions. Some submissions are written only, and other submitters may wish to be heard before the Panel. The Panel makes a recommendation to Council regarding the scheme.
<input type="checkbox"/> <i>Abandonment of scheme</i>	The Panel may recommend to Council that the scheme be abandoned. After considering the Panel's report, Council may proceed to abandon the scheme following which property owners are notified and the scheme does not proceed.
<input type="checkbox"/> <i>Declaration Report</i>	Alternatively the Panel may recommend to Council that the scheme proceed. After considering the Panel's report, Council may proceed to "declare" the charges in accordance with its advertised intent. Subsequent to this the Finance Manager issues the levy notices and there is a formal charge placed on the property. This is the final step in the process for Council to make a decision on the scheme.
<input type="checkbox"/> <i>Appeal</i>	Property owners may lodge an application for review with the Victorian Civil and Administrative Tribunal (VCAT) within one month of issue of the levy notice. An appeal is listed, heard and determined by the Tribunal and this process generally takes three to four months. Decision made by VCAT are binding on all parties.
<input type="checkbox"/> <i>Construction</i>	Council may then proceed to construct the works. Invoices are issued seeking payment of the estimated cost within one month of commencement.
<input type="checkbox"/> <i>Final Cost Report</i>	At the completion of the works the scheme is "finalised" taking into account the actual costs incurred and payments justified accordingly.

Attachment 4
Special Rates and Charges - Ministerial Guidelines (2004)



Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

Preface to Ministerial Guideline on Special Rates and Charges

INTRODUCTION

The attached Ministerial Guideline has been prepared to assist and guide Councils in complying with new provisions of the Local Government Act 1989 (the Act) relating to the levying of Special Rates and Special Charges. It specifically addresses the method of calculating the maximum amount that a Council may levy as a special rate or charge.

The amendments to the Act made by the Local Government (Democratic Reform) Act 2003 had the following objectives:

- To ensure fairness and equity by requiring Councils to formally consider the proportion of the benefits of a proposed works or services that will provide special benefits for the people included in the scheme,
- To maximise opportunities for participation in consultation on proposed schemes and to provide objection rights where it is proposed that the affected people should contribute over two thirds of total costs.
- To ensure councils retain the ability to recover reasonable contributions from people who will derive special benefits from particular works or services so that those special benefits do not need to be subsidised by general ratepayers.

THE AMENDMENTS

The amendments made to the special rates and charges provisions of the Act include the following:

- A proposed declaration must include a description of the works or services to be provided, the total cost of the works or services and the total amount of the special rates and charges to be levied. (This is in addition to information already required)
- When a council gives public notice of a proposed special rate or charge it must, within 3 working days, send a copy of the public notice to each person who will be required to pay the rate or charge.
- Before declaring a scheme, a council must determine the "total amount" of the special rates and charges to be levied. The total amount may not exceed the maximum total amount calculated by the formula $R \times C = S$; where R is the benefit ratio, C is the total cost of the works or service and S is the total maximum amount.
- If a council proposes to levy a total amount that exceeds two thirds of the total cost the affected ratepayers have a right to object and if the council receives objections from a majority of those ratepayers within 28 days of the public notice it may not declare the scheme. (This is in addition to the existing section 223 consultation process)
- If a council proposes to alter a declared special rate or charge in a way that will require an additional person(s) to pay, or that will involve a material increase in the amount that a person has to pay, it must give public notice of the proposal and consider public submissions, in accordance with section 223 of the Act.

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

COVERAGE OF THE GUIDELINE

The Ministerial Guideline specifically deals with the calculation of the maximum total amount that a council may levy as a special rate or special charge. It therefore deals with the calculation of the total cost of the works or services and the estimation of the benefit ratio (Sections 163(2A) and 163(2B) of the Act).

It should be noted that the guideline does not deal with the following matters:

- Consultation processes between councils and people affected by proposed special rate or charge schemes,
- The new notification and objection procedures in the Act, except where they are related to or affected by the total cost, the benefit ratio or the maximum total levy, or
- The criteria used for the apportionment of special rates and charges between the people required to pay the rate or charge.

USING THE GUIDELINE

This Guideline is intended to assist Councils in preparing proposed declarations for special rates and charges schemes. While not having the same force as the Act, the Guideline should be considered by a council when developing a special rate or special charge scheme.

It is acknowledged that special rate and charge schemes can vary significantly and that it is not possible to cover all situations in a guideline. Subject to the requirements of the Act, councils are empowered to exercise discretion in developing special rate and charge schemes. In exercising their discretion, however, councils should take the Guideline into account to avoid the risk of having their decisions set aside by the VCAT or a court by reason of having failed to take into account a relevant consideration.

APPORTIONMENT

The guideline does not deal with the criteria to be used as a basis for levying a special rate or charge. This is commonly referred to as "apportionment". The following matters should be noted, however:

- The determination of apportionment criteria is a separate process from the calculation of the maximum total levy.
- While benefit is the fundamental criterion for determining the proportion of total costs that may be recovered under a special rate or charge, it is not necessarily the appropriate criterion for determining apportionment.
- Councils should have regard to the objective in the Local Government Charter (Part 1A of the Act), to "ensure the equitable imposition of rates and charges" when deciding on apportionment criteria.
- Prior consultation with affected people should enable councils to develop equitable and appropriate apportionment criteria in a proposed declaration.
- A person required to pay a special rate or charge continues to have the right to request a review by VCAT on the basis that the apportionment is unreasonable.

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

MAXIMUM LEVY

The Guideline provides assistance for councils calculating the maximum total levy applicable to a special rate or charge scheme. While maximum total levy is the highest total amount that a council may recover as a special rate or charge, a council is not required to recover that maximum amount and may decide, at its own discretion, to levy a lower amount than the maximum total levy.

CONSULTATION

Generally, councils that establish special rate and charge schemes have well developed public consultation processes that significantly exceed the minimum requirements of the Act. This approach is highly recommended. Experience shows that open and effective consultation with the community, particularly with the people who will be included in a proposed scheme, results in higher success rates and greater public satisfaction.

COUNCIL POLICIES

While not essential, it is desirable for Councils that intend to establish special rate and special charge schemes to develop and adopt policies and procedures to ensure reasonable and consistent practices. It is essential that that any such policies or procedures be consistent with the new provisions of the Act and it is recommended that they be consistent with the Ministerial Guideline.

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

Local Government Act 1989 – Section 163(2C)

Special Rates and Special Charges: Calculating Maximum Total Levy

Ministerial Guideline

(Published in the Government Gazette on 23 September 2004)

INTRODUCTION

1. This Guideline is made under section 163(2C) of the Local Government Act 1989 (the Act). It relates to the application of sections 163(2), 163(2A) and 163(2B) of the Act. It specifically addresses the calculation of the maximum total amount that may be levied as a special rate or special charge (referred to as the "*maximum total levy*").
2. Some terminology used in this Guideline should be noted:
 - a. "*Scheme*" refers to a special rate or special charge scheme.
 - b. "*Works or services*" refers to the functions or powers being exercised by the Council for which it is proposed to levy a special rate or charge.
 - c. "*Property*" refers to property in the form of land.
3. The calculation of the *maximum total levy* requires the following:
 - a. Calculation of the "*total cost*" of the works or services,
 - b. Calculation of the "*benefit ratio*", which depends on reasonable estimates of:
 - "*Total special benefits*" to properties included in the scheme,
 - "*Total special benefits*" to properties not included in the scheme (if any), and
 - "*Total community benefits*" (if any).

STEPS IN CALCULATION

4. The following steps apply to the calculation of the maximum total levy.
 - A. DEFINE PURPOSE
 - B. ENSURE COHERENCE
 - C. CALCULATE TOTAL COST
 - D. IDENTIFY SPECIAL BENEFICIARIES
 - E. DETERMINE PROPERTIES TO INCLUDE
 - F. ESTIMATE TOTAL SPECIAL BENEFITS
 - G. ESTIMATE COMMUNITY BENEFITS
 - H. CALCULATE THE "BENEFIT RATIO"
 - I. CALCULATE THE MAXIMUM TOTAL LEVY

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

A. Define Purpose

5. The purpose, or purposes, of the proposed works or services should be clearly defined at the outset. The purpose should describe the reasons why the proposed works or services are proposed.
6. The description of the purpose would normally take account of the following:
 - a. Reasons why the works or services are considered necessary or appropriate, noting any relevant background information.
 - b. Who has proposed that the works or services be undertaken and including the following information;
 - If the works or services have been proposed by the council, the relevant council policy or resolution.
 - If the works or services were requested by a person or people other than the council, an indication of whether those people are proposed to be included in the scheme and what reasons they have given for requesting the works or services.
7. A scheme may serve multiple purposes and can be proposed by multiple parties.

B. Ensure Coherence

8. For the purposes of calculating the maximum total levy, and therefore total cost and benefit ratio, the works or services for which the special rate or charge is proposed should have a natural coherence.
9. Proposed works or services can be considered to have a natural coherence if:
 - a. They will be physically or logically connected, or
 - b. They will provide special benefits, of a related nature, to a common, or overlapping, group of properties.

C. Calculate total cost

10. The "*total cost*" is the aggregate cost of defraying expenses related to providing the works or services and establishing the scheme.
11. The following should apply to the calculation of the "*total cost*":
 - a. Costs included in the *total cost* must be for purposes in section 163(1) of the Act, and
 - b. Costs included in the *total cost* may only be for expenses listed in section 163(6) of the Act, and
 - c. Costs included in the *total cost* should be based on actual expenses that have been incurred, or reasonable estimates of expenses expected to be incurred. (For example, any interest should be based on estimated actual interest costs rather than on prescribed penalty interest rates)
 - d. Costs included in the *total cost* may relate to known activities but not to activities that are purely speculative or hypothetical in nature. (For example, provision for incidental costs related to the proposed works might be included but not costs related to possible legal proceedings that may or may not occur)

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

D. Identify special beneficiaries

12. The council should identify, as far as possible, which properties will receive a special benefit from the proposed works or services. A "*special benefit*" is considered to be provided to a property if the proposed works or services will provide a benefit that is additional to or greater than the benefit to other properties.
13. It is important to note that, while special benefits are considered to accrue to properties, the actual measurable benefits are provided to the owners and/or occupiers of the properties (see also paragraph 23.a).
14. Special benefits should be benefits that are either tangible benefits to the owners or occupiers of the properties that are not remote, or they should be clear benefits to those owners or occupiers that were identified in the defined purpose of the works or services (paragraph 5). Types of benefits included as special benefits generally include services provided for the properties, identifiable improvements in physical or environmental amenity, improved access, improved safety or economic benefits.
15. A special benefit may be considered to exist if it would reasonably be expected to benefit the owners or occupiers of the property. It is not necessary for the benefit to be actually used by the particular owners or occupiers of a specified property at a particular time in order for a special benefit to be attributed to the property.

E. Determine properties to include

16. Having identified which properties will receive *special benefits*, the council must decide which properties to include in the scheme. The properties included in the scheme will be those that are required to pay the special rate or charge.
17. If a property will receive a *special benefit* but is not included in the scheme, the calculation of the benefit ratio will result in the council paying the share of costs related to the special benefits for those properties.
18. The council is not required to levy a special rate or charge on any or every property that will receive a *special benefit*. A property with a special benefit may be excluded from the scheme for any of the following reasons:
 - a. The council is unable to levy a special rate or charge on the property,
 - b. The owner of the property has already contributed to the costs of the works through a development levy,
 - c. The council considers that there are particular advantages for the municipality in excluding the property from the scheme,
 - d. The council considers that the special benefits for the property are marginal and would not warrant including the property in the scheme, or
 - e. Any other reason that the council considers appropriate.

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

F. Estimate total special benefits

19. Total special benefits can be defined to include two parts, as follows:

$$TSB = TSB_{(in)} + TSB_{(out)}$$

- *TSB* is the estimated total special benefit for all properties that have been identified to receive a special benefit.
 - *TSB_(in)* is the estimated total special benefit for those properties that the council proposes to include in the scheme.
 - *TSB_(out)* is the estimated total special benefit for those properties with an identified special benefit that the council does not propose to include in the scheme.
20. In estimating the total special benefits for properties that will be included in the scheme, particular attention should be paid to:
- a. The identified purpose of the proposed works or services, and
 - b. Specific benefits relevant to the type of works or services proposed.
21. There is no single or prescribed method for estimating total special benefits. However, whatever method is used, it is essential that the comparative weightings attributed to different types of benefits are reasonable and are applied consistently by a Council. It is also essential that consistent weightings are used between those properties that are included in the scheme and those that are not included.
22. It is particularly important to note that, while it may sometimes be useful to estimate special benefits on a property by property basis, this is not always necessary. The calculation of the benefit ratio only requires aggregate estimates of total special benefits for properties included in the scheme and for properties excluded from the scheme.
23. The following matters should be noted in calculating "total special benefits"
- a. While changes in property values are considered to be an indication that a special benefit exists, this is generally derived from benefits provided to the owners or occupiers of the property. To avoid double counting, changes in property values should not normally be included in the calculation of total special benefits.
 - b. Where the services or works proposed under a scheme include benefits to people who are servicing or accessing properties that are identified as having special benefits, the benefits to those people may be included as special benefits to the properties rather than as community benefits.

G. Estimate total community benefit

24. Before calculating the benefit ratio, a Council must consider if the proposed works or services will provide "*community benefits*". Not all schemes have community benefits.
25. *Community benefits* are considered to exist where the works or services will provide tangible and direct benefits to people in the broader community. These will generally derive from the provision of facilities or services that are

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

generally available to people, other than owners or occupiers of properties with special benefits.

26. Where there is a use or amenity value to people in the broader community that is a clear, tangible and direct, the Council should attribute a community benefit. The council should also attribute a community benefit where it identified in the defined purpose of the works or services (paragraph 5).
27. Councils should use a method of estimating community benefits that is reasonable and consistent in comparison to the estimates of special benefits. In making these estimates, care should be taken to avoid double counting. If a benefit is identified as a special benefit it should not also be counted as a community benefit.

H. Calculating the benefit ratio

28. The benefit ratio is calculated as follows:

$$\frac{TSB_{(in)}}{TSB_{(in)} + TSB_{(out)} + TCB} = R$$

- *TSB_(in)* is the estimated total special benefit for those properties that the council proposes to include in the scheme
- *TSB_(out)* is the estimated total special benefit for those properties with an identified special benefit that the council does not propose to include in the scheme.
- *TCB* is the estimated total community benefit,
- *R* is the benefit ratio.

I. Calculating the Maximum Total Levy

29. Having calculated the total cost and the benefit ratio, the Council is required to calculate the maximum total levy, in accordance with section 163(2A) of the Act.

$$R \times C = S$$

- *R* is the benefit ratio
 - *C* is the total cost
 - *S* is the maximum total levy.
30. A council may not levy a special rate or charge to recover an amount that exceeds the maximum total levy. However, a council may decide to levy a lower amount.

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

SCHEME TYPES

31. The principles and processes outlined in this guideline will apply differently in different types of schemes recognising that complexities and variances occur with each scheme.
32. In general there are three main types of schemes:
 - a. Works Schemes, that involve the construction of an item, or items of infrastructure,
 - b. Service schemes that provide a particular service or bundle of related services, and
 - c. Special purpose fund schemes, where the monies raised by the special rate or charge go into a fund for a specified purpose and may include a mixture of works and/or services.

A. Works Schemes

33. Works schemes are schemes that involve the construction of an item, or items, of infrastructure, such as roads, (including road pavement, footpath, kerb and channel, etc) drains or car parks.
34. Benefits to be taken into account in a works scheme are usually related to improved amenity, safety, environment or usage value. As with all schemes, any benefits identified in the defined purpose should be taken into account in estimating total special benefits and total community benefit.
35. Consideration of the special benefits and community benefits should take account of changes in usage that are realistically expected to occur following the construction of the works.
 - a. Future benefits should be limited to those that can arise under existing laws, planning schemes, permits and approvals.
 - b. Future benefits should be limited to benefits that may arise within reasonable timeframes.

ROADS

36. The construction of a road may generally include the various components of a road, such as the road pavement, kerb and channel, drains and drainage pits, nature strips and street trees, signage, line marking, traffic management devices, and footpaths.
37. When estimating the total special benefits associated with the construction of a road, a Council may take account of the following:
 - a. The primary purpose for which the road is being constructed.
 - b. Improved access to properties by owners, occupiers, visitors and services,
 - c. Improved safety such as improved traffic delineation, improved sight distance, road surface and road width, reduced road flooding,
 - d. Improved physical or environmental amenity for the owners or occupiers, which may result from such works due to landscape treatments, removal of open drains and stagnant water, reduced property flooding, removal of dust,

Attachment 4 Special Rates and Charges - Ministerial Guidelines (2004)

- e. Impact on any community facilities that may derive a special benefit from the works.

Where properties with special benefits have been excluded from the scheme, these factors should be applied consistently to those properties, wherever relevant.

- 38. When estimating the level of community benefit associated with the construction of a road, a Council should take account of:
 - a. The primary purpose for which the road is being constructed,
 - b. Actual and expected usage of the constructed works, with a possible exception where the users are accessing or servicing properties with special benefits,
 - c. Expected impacts on projected road usage from factors such as growth, major development or traffic generators that are located outside of the scheme works,
 - d. Road function/classification and subsequent design standards and the extent that those standards are influenced by the degree of community usage of the works over and above that, may be attributed to properties within a scheme,
 - e. Extent of other works such as bicycle lanes and parking lanes, increasing the standard above that that would normally apply if only providing local property access.

DRAINS

- 39. In drainage schemes or works involving drainage infrastructure the key criteria for assessing total special benefits, includes an assessment of discharge and protection benefit to properties. This may relate to properties included in the scheme as well as properties not included in the scheme.
- 40. Factors that may be considered to provide a community benefit include improved drainage capacity, improved environment amenity due to such matters as water quality, reduction in erosion, reduction in flooding and improved health and hygiene.

B. Service Schemes

- 41. Service schemes are schemes that provide a particular service or bundle of related services that provide a special benefit.
- 42. Benefits to be taken into account in service schemes are primarily the special benefits to the direct users of the services. When estimating total special benefits and any community benefits for service schemes, the following consideration may apply:
 - a. Who requested the service and what is its primary purpose?
 - b. Which group of people might be reasonably expected to pay for the service if it were commercially available?

RETAIL PROMOTIONS

- 43. Where services are provided for purpose of promoting or supporting business activities, such as in retail centres or shopping strips, the affected businesses would frequently be considered to be the main, or sole, beneficiaries. This will

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be particularly appropriate where the scheme has been proposed by business associations and the services are tailored to the needs of the affected businesses.

44. Any benefits for customers of the businesses that are included in the scheme would normally be included in the total special benefits to those businesses, in accordance with paragraph 23.b.

SERVICES GENERALLY AVAILABLE

45. Special rate and charge schemes are not generally used for services that are generally available to other people. This is because special rates and charges are only applicable where there is a special benefit.
46. However, there may be cases where a higher level of service is required for a particular area or group of properties and it may be appropriate to levy a special rate or charge. This might apply, for example, where ratepayers require maintenance of the road adjoining their properties at a higher standard than is generally provided for roads of a similar type and classification.
47. In such cases, it is important to ensure that the special rate or charge does not apply to the portion of the service that is generally available to other people. Therefore, the calculation of the *maximum total levy*, the *total cost* and the *benefit ratio* should be restricted to that part of the service that is over and above the level of service generally available to other people.

C. Special Purpose Fund Schemes

48. Special purpose fund schemes are where the monies raised by the rate or charge go into a fund to be used for a specified purpose. In these schemes, the precise services and/or works are not fully specified in advance and a process is therefore established to allocate the funds raised. An example of this type of scheme could be a shopping centre promotion scheme, where a council directs and empowers a committee to allocate the funds.
49. Particular care should be taken when defining the purpose of special purpose fund schemes as the calculation of the *maximum total levy*, the *total cost* and the *benefit ratio* need to be based on the defined purpose.
50. When estimating total special benefits and any community benefits a council should consider the defined purpose of the scheme. It should also take account of advice in this guideline relevant to the types of works or services proposed or planned under the scheme.
51. It is essential that any funds raised under a special purpose fund scheme are utilised fully in accordance with the defined purpose of the scheme.