

Special Rates and Charges Policy



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| Policy type | Council |
| Adopted by | Council |
| Responsible General Manager | General Manager Infrastructure |
| Responsible officer | Manager Construction & Assets |
| Date adopted | |
| Scheduled for review | This policy will be reviewed four years from the date of adoption, or sooner if required. |

PURPOSE

The purpose of the Special Rates and Charges Policy is to provide guidance on how Council will implement and administer special rates and special charges that assist to fund the construction of new infrastructure or joint services, such as construction of kerb and channel, footpaths or marketing programs.

Council uses its powers under the *Planning and Environment Act 1987* and the *Subdivision Act 1988* to require developers to provide the infrastructure needed in new estates. These costs are included in the land sale price. However, Council cannot retrospectively apply these powers to land that was subdivided in the past without the current standard of infrastructure.

Council recognises it does not have the financial resources to fully fund the upgrade of all existing infrastructure to current standards. Where Council considers that infrastructure improvements provide special benefits to abutting properties a Special Rate and Charge Scheme will be explored to share the costs. These benefits can include improvements in amenity, access, safety or economic benefits such as increased land value.

Council may determine that the owners of the properties that receive special benefits from infrastructure works and programs should contribute an equitable share of the cost of those works. Council will achieve this using special rate and charge schemes that are implemented in accordance with this policy, section 163 of the *Local Government Act 1989* and *Ministerial Guidelines*.

SCOPE

This policy applies to all Special Rate and Charge Schemes declared by Council under the *Local Government Act 1989* ("the Act").

DEFINITIONS

| | |
|---------------------------|--|
| 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 generally available to people, other than owners or occupiers of properties with special benefits, through savings from operational or maintenance costs, or through reduced risk. Where this is clear, tangible and direct, the Council should attribute a community benefit. |
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| Council | Moira Shire Council |
| Councillors | means the a person who holds the office of a member of Moira Shire Council |
| Council officer | means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer. |
| Parcel | a property may have multiple parcels on the one assessment which can be sold individually or as multiples without having to do a subdivision. This may mean that the liability that the current owner has for the proposed Scheme may alter if the contribution is based on a parcel basis. |
| Property | refers to property in the form of land. |
| Scheme | refers to a special rate or special charge scheme. |
| 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. |
| VCAT | refers to the Victorian Civil and Administrative Tribunal. |
| 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. |

POLICY

1. Scheme Initiation

A Special Rate and Charge Scheme ('Scheme') to share the costs of capital works or services may be initiated upon receipt of a request from Councillors, community members via a submission, petition or joint letter or Council officers.

Where the requested works or services are not included in current or future works program and are deemed to provide special benefit to landowners, then the following will occur:

- a. Assess initial interest in proposed works:
 - i. identification of properties receiving a special benefit.
 - ii. identification of general community benefit resulting in anticipated percentage contribution by Council.
 - iii. initial interest survey of benefitting property owners to determine if there is sufficient interest to cost the works and develop a Scheme.
 - iv. report results to Council to receive direction on whether or not to proceed with development of a Scheme.
- b. If Council chooses to develop a Scheme:
 - i. prepare concept design and cost estimate.
 - ii. secure funds to cover community benefit and the share of any Council properties and any benefitting properties to be excluded from the Scheme by Council.
 - iii. determine proposed method of apportionment of costs amongst benefitting property owners.
 - iv. notify benefitting property owners of details of proposed Scheme.

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- v. hold a public meeting(s) to discuss details of the Scheme. Where it is not possible to hold a meeting then information will be posted to benefitting property owners with a process to have questions asked and answers disseminated to all benefitting property owners.
 - vi. amend details of the Scheme if required.
 - vii. conduct survey of all benefitting property owners seeking support of proposed Scheme.
- c. Report results of survey to Council to receive direction on whether to:
- i. abandon the Scheme;
 - ii. amend the Scheme; or
 - iii. declare the scheme as per relevant legislation and Ministerial Guidelines. Council will be guided by the level of majority support as set out in this policy.

2. Cost Apportionment

Council will determine a method to fairly apportion costs for all landowners to be included in a special rate and charge scheme. In doing so, Council may take into consideration a number of factors, singly and in combination, such as:

- a. the number of benefitting properties;
- b. the number of benefitting parcels;
- c. the length of the abutting boundaries;
- d. lot sizes;
- e. land zoning and future subdivision potential under the Moira Shire Planning Scheme;
- f. number and location of property accesses;
- g. the types of special benefits accruing to the land; and/or
- h. any other matter that provides a reasonable basis of apportionment.

See *Appendix A: beneficiary principles* for a guide on identifying deemed beneficiaries.

3. Council Contributions

Council will contribute a percentage of the total cost of works or services where a community benefit has been identified. Council generally funds the contribution for Community Benefit from rates income.

See *Appendix A: beneficiary principles* for a guide on calculating community benefit.

| % of total cost contributed by Council | Community Benefit |
|--|---|
| 0% | Where there will be no benefit to the general community. This will give benefitting property owners the opportunity to pay off the charge over the scheme length e.g. multiple business marketing program |
| 20% | For provision of infrastructure where there is a community benefit that is less than or equal to this contribution e.g. new kerb and channel works |
| 50% | For provision of infrastructure where there is a community benefit that is greater than 20% e.g. new footpath works |

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Council will also cover the contribution of:

- a. All council owned properties included in the scheme; and
- b. A property where Council has identified a property that will receive a special benefit and has decided to exclude it from the scheme.

4. Engineering and Administration Costs

Council will include the engineering and administration costs associated with developing and implementing a Scheme in the total cost of the project. The engineering and administration costs will be determined according to the cost of the works as follows:

| Estimated Cost of Works | Engineering and Administration Cost |
|-------------------------|--|
| Up to \$20,000 | 20% of estimated cost of works |
| \$20,001 to \$100,000 | \$4,000 + \$0.15 per dollar cost over \$20,000 |
| \$100,001 to \$500,000 | \$16,000 + \$0.10 per dollar cost over \$100,000 |
| Over \$500,000 | \$56,000 + \$0.08 per dollar cost over \$500,000 |

5. Survey Votes

Benefitting property owners will be surveyed at a number of stages throughout the drafting of a scheme. In each survey a benefitting property owner will get one vote for each unit of apportionment, i.e. parcel or property to be included in the proposed Scheme. If a benefitting property owner does not submit a survey response by the closing date it will be deemed that they do NOT support the Scheme.

The development of a scheme will only occur if 80% of anticipated benefitting property owners indicate their support through an initial interest survey.

A scheme will only proceed to the next stage if the following levels of support are met depending on the level of Council contribution to cover community benefit (when not whole numbers the number is rounded up):

| Community Benefit % contribution by Council | % of votes deemed a Majority |
|---|------------------------------|
| 0 | 70% |
| 20% | 60% |
| 50% | 50% + 1 |

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6. Scheme Length

Scheme length for each benefitting property owner is to be based on their expected contribution amount to the scheme as set out below:

| Charge per parcel/property | Maximum Length of Special Rate and Charge Scheme |
|----------------------------|--|
| 0 - \$2,000 | Four (4) Years. |
| \$2,001 - \$5,000 | Six (6) Years. |
| \$5,001 - \$10,000 | Eight (8) Years. |
| \$10,001 + | Ten (10) Years. |

7. Payment of Special Rates and Charges

- a. Notices requesting payment will generally be raised after the service or works are complete unless Council specifies otherwise.
- b. Council will provide reasonable opportunity for payment of special rates and charges. Special rate or charge levies will be payable by:
 - i. lump sum in full within 30 days after the date of issue of the notice; or
 - ii. quarterly instalments over a period of years as set out in scheme length for each scheme, but not exceeding 10 years.
- c. applications for relief or assistance due to hardship will be considered in accordance with Council's Financial Hardship Policy.
- d. outstanding payments will be processed in accordance with Council's Rate Collection Policy.

8. Application of Interest

Interest payments will be calculated for the period which commences on the issue date of the previous account up to the quarter ending which coincides with the date of the current account.

- a. interest will be charged from the due date.
- b. as a general guide, the interest rate will be determined by Council's General Manager Corporate as Council's borrowing interest rate plus one percent (1.0%) for administration costs at the time the scheme is declared.
- c. the interest will be charged on the principal balance outstanding, as at the end of the previous quarter.

9. Discontinued Schemes

If a Special Rate and Charge Scheme does not proceed due to lack of support during the initial assessment stage, or is discontinued as a result of objections or appeal, then the project or work will not be re-investigated for two years unless circumstances change significantly.

10. Right to Appeal Council's Decision

A person may apply to VCAT for review of Council's decision to impose a special charge on them. A person must apply to VCAT within 30 days of the notice of the special charge being issued to them. Section 185(2)(b) of the *Local Government Act 1989* lists the grounds of appeal that VCAT may consider.

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ATTACHMENTS

Appendix A: Beneficiary Principles

RELATED LEGISLATION

Local Government Act 1989

Local Government Act 2020

Local Government (General) Regulations 2015

Charter of Human Rights & Responsibilities Act 2006

REFERENCES

Ministerial Guidelines - Special Rates and Charges, September 2004

RELATED POLICIES

Rates Collection Policy

Financial Hardship Policy

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APPENDIX A: BENEFICIARY PRINCIPLES

| Type of Project or Infrastructure | Category | Deemed Beneficiaries | Community Benefit (CB) Calculation Principles | Apportionment Options |
|-----------------------------------|---|--|---|---|
| Footpath or Shared Path | Access street, road or place. | Abutting and opposite properties (except where a path exists opposite). | Community benefit based on estimated volume of through pedestrian traffic. Minimum CB = 50% | Determined by proportion of property frontage to path. A reduced rate may be applied for property sideage to path. Beneficiary contribution limited to standard width of footpath (1.5 metres) with additional width being paid for by Council. |
| | Arterial road. Commercial and industrial areas. Collector / link road. | Abutting properties only, due to the need to have paths on both sides. | Community benefit based on estimated volume of through pedestrian traffic. Minimum CB = 50% | Determined by proportion of benefit gained by the property from the works. Contribution limited to standard width of footpath (1.5 metres) with additional width being paid for by Council. |
| Urban Drainage | Property drainage including Kerb and Channel | Properties either discharging stormwater into the drain or receiving protection from stormwater runoff by the drain. | Community benefit based on contribution to broader drainage benefits. Minimum CB = 20% | Determined by combination of relative area of each property drained or protected by drain and per parcel charge. |
| | Outfall drainage | Properties either discharging stormwater into the drain or receiving protection from stormwater runoff by the drain. | Community benefit based on additional capacity costs over identified scheme beneficiaries. Minimum CB = 50% | Determined by combination of relative area of each property drained or protected by drain and per parcel charge. |

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| Type of Project or Infrastructure | Category | Deemed Beneficiaries | Community Benefit (CB) Calculation Principles | Apportionment Options |
|-----------------------------------|---|--|--|---|
| Road | <p>Access street, road and place</p> <p>A road or laneway in this category primarily provides direct access for abutting Residential, Industrial, Commercial, and in other locations, Forestry, Tourist and Agricultural properties and connect into either the Link, Collector or Arterial road network. Traffic using these roads are predominantly local vehicles.</p> | Abutting properties and properties directly serviced by road. Council for non-rateable properties. | <p>Benefit based on access and amenity in proportion to reason for construction. Access based on volume of vehicle traffic. Amenity based on improvements to liveability. Community benefit based on volume of non-local vehicle traffic.</p> <p>Minimum CB = 20%</p> | Determined by combination of proportion of street frontage and per lot charge. |
| | <p>Collector and link.</p> <p>Collector: Roads of this classification primarily provide a route between, and through, Residential, Industrial, Agriculture, Tourist and Forest traffic nodes and the Rural Link and/or Arterial road network.</p> <p>Link: Roads of this classification primarily provide a direct linkage between significant population centres and major traffic generators such as Residential, Industrial, Commercial, Agricultural and Tourist areas and Arterial Roads. These roads have an Identifiable Origin and Destination.</p> | Abutting properties and properties directly serviced by road. Council for non-rateable properties. | <p>Benefit based on access and amenity in proportion to reason for construction. Access based on volume of vehicle traffic. Amenity based on relative length of road across property. Community benefit based on volume of through vehicle traffic.</p> <p>Minimum CB = 50%</p> | Determined by proportion of benefit gained by the property from the works. Beneficiaries to contribute to the equivalent full cost of residential access street construction standard with Council contributing additional costs involved in upgrading the road to collector or trunk collector standard. |
| Off Street Carpark | Retail/Commercial | Properties which will derive a benefit through likelihood of customers using carpark. | <p>Community benefit only if carpark (or standard of design) serves amenity (township promotion or landscape) purpose.</p> <p>Minimum CB = 0% unless over standard then 20%</p> | Determined by relative existing and potential shop size, type, proximity and any alternative provision or previous contribution towards spaces provided. |

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| Type of Project or Infrastructure | Category | Deemed Beneficiaries | Community Benefit (CB) Calculation Principles | Apportionment Options |
|------------------------------------|--|--|--|--|
| Streetscape Upgrade | Retail/Commercial Industrial Residential | Abutting properties. | <p>Only applies to works to a standard above any determined minimum standard for the type and location. Community benefit based on (or standard of design) serves amenity (township promotion or landscape) purpose.</p> <p>Minimum CB = 0% unless over standard then 20%</p> | Determined by relative type and proximity of property. |
| Marketing/Promotion Program | Retail/Commercial Industrial | Properties which will receive an identifiable benefit from program, given use and type of business. | <p>Benefit based potential for financial benefit, given relative existing and potential size of business.</p> <p>Minimum CB = 0%</p> | Determined by combination of Capital Improved Value of property and per property charge. |
| Provision of Services | Retail/Commercial Industrial Residential Eg. Water, sewer etc | Abutting properties. Properties which will receive an identifiable benefit from the program, given the use and type of business. | <p>Benefit based on the potential for financial, amenity or access benefit given relative existing and potential size of business or residence. Community benefit based on the benefit to the Community outside the Scheme boundary.</p> <p>Minimum CB = 0%</p> | Determined by relative type and proximity of business, as well as service usage. |