

Contributory Schemes - Special Rates and Charges Policy

Policy Number:	Issued by Governance	Directorate:	Engineering & Infrastructure
Approval by:	Council	Responsible Officer:	Manager – Community Infrastructure
Approval Date:	27 July 2020	Version Number:	5
Review Date:	27 July 2023		

1. Purpose

The purpose of the policy is to set out the principles of a Special Rates and Charges Scheme (Contributory Scheme) to fund infrastructure works.

2. Context

In September 2004, Local Government Victoria established Ministerial Guidelines for the Implementation of Special Rates and Charges in response to amendments to the Local Government Act in 2003 to ensure fairness and equity when implementing Special Rates and Charges under Section 163 of the Local Government Act 1989.

The implementation of the Local Government Act 2020 started coming into effect on 6 April 2020, with no change pertaining to the existing guidelines relating to Special Rates and Charges.

This Policy is intended as a procedural guide for the creation and implementation of all Contributory Schemes, which accords with the Ministerial Guidelines.

Specific guidelines for determining Special and Community Benefits and thus the apportionment of cost referred to as the Maximum Total Levy are included as appendices to this report. Appendix 1 provides apportionment guidelines and methodology in respect of schemes for:

- Road Construction
- Footpath Construction
- Kerb and Channel Construction
- Drainage Construction
- Off street Car Parking

An operational guidelines and flowchart is shown in Appendix 2.

3. Scope

4. This policy will apply to the investigation and development of all Special Rates and Charges Schemes. References

- Local Government Act 1989 and amendments
- Ministerial Guidelines 2004

5. Definitions

The terms used in this policy are defined in the Local Government Act 1989 and the Ministerial Guidelines.

6. Council Policy

6.1 Scheme Initiation

The special rate or charge process may be initiated by Council, members of the public, residents within the area, Council Officers or as a result of requests` from officers of Statutory Authorities with services in the area or providing service to the area.

6.1.1 Preliminary Consultation and Report

Except for the case where the process has been initiated by a petition containing the signatures of a two thirds majority of potential contributors, the relevant Director shall circulate a questionnaire to identify the potential contributors and their level of support for a scheme.

Note: At the Council meeting held on 26 June 2007, Council resolved that a 60% minimum level of support from contributing properties be a base requirement for a road construction scheme to be prepared and before committing Council funds in the Capital Works Program.

Council may consider proceeding with a particular scheme based on compelling reasons relating to issues of safety, health or amenity.

Having allowed fourteen (14) days for reply, the Responsible Officer shall prepare a preliminary report to the subsequent Council Meeting which may include the following:

- background information detailing the reason for canvassing potential contributors;
- a statistical analysis of results of responses and an assessment of their substance;
- the circumstances which may exist whereby the considerations of safety or other matters override all other considerations;
- the outcome of public consultation;
- an expansion of the preliminary report taking into account the following matters where relevant:
 - the function of the infrastructure;
 - safety and amenity;
 - technical matters such as design speeds for local roads, impact on drainage and road networks;
 - environmental impact including removal or protection of native vegetation; and
 - cost to the community regarding options, including no action, i.e. cost to maintain the existing facility.

- Council contribution to the scheme;
- recommendation of any committee which may have been formed to participate with development of the functional and conceptual issues;
- recommendation to either abandon, amend or adopt the proposed scheme and/or proceed with detail design of the preferred option; and
- recommendation that affected owners/occupiers and any party which has registered its interest in the scheme in writing with Council be advised of Council's decision.

6.1.2 Five Year Capital Works Program

Following a resolution by Council to proceed with the scheme, a preliminary estimate should be referred to the Five year Capital Works program. When funding becomes available for the project, the scheme may continue.

6.2 Detailed Scheme Preparation

Following the Council resolution to proceed with the Scheme, the final design, estimates and apportionments shall be prepared. The officer responsible for the detailed preparation of the Scheme shall maintain a high level of consultation with parties to be affected by the proposal.

6.3 Statutory Requirements for Scheme Adoption

6.3.1 Declaration of Special Rate or Charge

- 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 Council gives public notice of a proposed special rate or charge it must, within three 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, 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 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 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. The Public Notice in Section 163 (1B) must: Outline the proposed declaration, show date on which it is proposed to make a declaration and allow inspection for at least 28 days after the notice and consider public submissions, in accordance with Section 223 of the Act.
- Council’s responsible officer shall report to Council with the details of the scheme, including calculation of Maximum Total Levy and the maximum amount that Council will levy as outlined in the Ministerial Guidelines dated 23 September 2004 shown in Appendix 3.
- Council or a committee of Council (established by Council) must consider any written submission made in respect of the scheme (S.223).

Also included in this report will be a Notice of Motion including:

- the period the Special Rate or Charge remains in force;
- the purpose of the Special Rate or Charge;
- a specification of the wards, groups, users or areas for which the Special Rate or Charge is declared;
- a specification of the criteria which forms the basis of the Special Rate or Charge. For local street construction this will be the ownership of properties that abut or are adjacent to the project and/or derive benefit from improved access and amenity;
- a specification of the manner in which the Special Rate or Charge will be assessed and levied. In general, apportionment should be carried out using the traditional methods well established through Administrative Appeals Tribunal precedent;
- an estimate of owners' liabilities. This estimate shall include ancillary costs such as survey, design, supervision and administration. Ancillary costs may be estimated using the Association of Consulting Engineers Australia (ACEA) Principle Consultant rates;
- the impact of the Council's liability to the contribution in the event of over expenditure;
- period of maintenance required for the works (if works are relevant to the rate or charge);
- incentives to be given to ratepayers as detailed in the policy;
- planning policies and specific objectives (if any) as referred in Section 185 of the Local Government Act 1989;
- the manner of payment of the Special Rate or Charge and the detail of the financing provisions to be accommodated by Council in regard to the scheme;
- that a Public Notice will be given of the declaration;
- that submissions made in accordance with Section 223 Local Government Act 1989 will be considered by Council; and
- a requirement for Council to establish a committee to consider any written submission made and hear people, in respect of the scheme (S223).

The Responsible Officer for the scheme in his report to Council will have regard to the Council policy which applies at the time in respect to the level of interest to be charged on the principal and any penalty interest which may apply to overdue repayment instalments.

6.3.2 Advice to Affected Persons

Should Council resolve to declare a Special Rate or Charge, a letter advising of this decision shall be sent to all persons required to pay and occupiers. This letter shall include the information to be contained in the Public Notice, including advice that submissions may be lodged by any interested party.

6.3.3 Public Notice

Following the declaration of the Special Rate or Charge a notice shall be published in a newspaper and or other relevant media, generally circulating in the area setting out the declaration and stating that submissions will be considered in accordance with Section 223 Local Government Act 1989.

The Responsible Officer shall ensure that copies of the advertisement are retained on file as confirmation that the notice was given.

6.3.4 Consideration of Submissions

Written submissions received by Council within the time prescribed in the public notice will be considered by a committee nominated by the Council. Personal appearances to support written submissions will be encouraged.

However, submitters must state their desire to appear before the Committee in their written submission. This committee will then make a recommendation to full Council for a final decision.

6.3.5 Council Resolution following Submissions

Following consideration of the committee's recommendation Council may resolve to:

- abandon the scheme by not giving effect to the declaration to levy the Special Rate or Charge or;
- prepare a new Special Rate or Charge Scheme due to the need to significantly modify the original scheme, therefore requiring the process to be recommenced; or
- proceed with or without minor variation to the original declaration.

NOTE: Any variation in the amount of the proposed rate or charge which exceeds more than 10% of the amount specified in the original notice will require the scheme to be returned to Council for consideration of a new declaration.

All persons making submissions and all parties affected by the scheme shall be advised of Council's resolution.

In the circumstance that no submissions are lodged, Council may resolve to confirm, modify or abandon its original scheme.

6.3.6 Levy of Special Rate or Charge

Council levies the Special Rate or Charge by sending a notice to all those liable to pay. This notice shall be in accordance with sub-sections 163(1A) and (1B) and (1C) of the Local Government Act 1989 and shall contain prescribed information detailed in Regulation 163(3).

6.3.7 Appeal

Following the levying of the Special Rate or Charge aggrieved persons may appeal to the Victorian Civil and Administrative Tribunal (VCAT) within one month after the date of issue of a notice to the person of the Special Rate or Special Charge or combination thereof. Section 185 of the Local Government Act sets down the criteria for an appeal and provides the following grounds:

- i. the works and projects or the period of maintenance for the purposes of which the Special Rate or Special Charge was imposed are not or will not provide a special benefit to that person; or
- ii. the basis of distribution of the rate or charge amongst those persons who are liable to pay it is unreasonable; or
- iii. if the planning scheme for the area contains any relevant policies or specific objectives, the works and projects proposed for the construction of a road or for the drainage of any land are inconsistent with those policies or objectives; or

- iv. if the planning scheme for the area does not contain any relevant policies or specific objectives, the works and projects proposed for the construction of a road or for the drainage of the land are unnecessary, unreasonable, excessive, insufficient, unsuitable or costly, having regard to the locality or environment and to the probable use of the road or drainage of land.

Following notification from the VCAT of appeals lodged, contact may be made with appellants in order to carry out negotiations prior to the hearing. Failing this the Responsible Officer will prepare Council's case for the VCAT hearing.

NOTE: An aggrieved person may in addition, or alternatively, appeal within 60 days to the County Court. Notice must be given to Council in the prescribed form for this to occur. (S. 184 L.G.A.). Grounds of appeal can be non-rateable land, assessment calculated incorrectly or the person considers that they are not liable to be rated.

6.3.8 Council Options Following VCAT Decision

Where VCAT upholds the scheme entirely or varies it with respect to the applicants, Council must proceed with the scheme as determined by VCAT.

Council can then:

- issue notices requiring payment within fourteen (14) days (S.167 (3)); or
- resolve to declare a variation to the scheme with all liable owners to be notified of the variation advice (S.166 (1) (b) and (2)); or

Where VCAT quashes a scheme, Council could only proceed to declare a scheme for the same street if the new scheme differs significantly from the quashed one and in particular in no way is inconsistent with VCAT's reasons for quashing the scheme as determined by VCAT.

Council may then:

- resolve the discontinuance of the declaration and provide all liable owners with discontinuance advice (S.164(2)); and
- significantly differ the scheme and proceed.

NOTE:

- (i) The issue of notice requiring payment (S.167 (3)) would follow Council's resolution to declare a variation and notification of variation.
- (ii) Once a discontinuance notice has been sent out no further action is required.
- (iii) The person who is liable to pay the Special Rate or Charge may apply to Council for permission to pay by a lump sum as determined between that person and Council S167 (4).

6.4 Scheme Implementation and Finalisation

6.4.1 Implementation Process

The Responsible Officer shall ensure that the tasks necessary to implement the scheme are carried out. Schemes which involve provision of services or Capital Works for the provision of infrastructure shall be

competitively tendered in accordance with the procedure set down in the Council's Contract Administration Policy.

If the Tendered Price for the Contract works component of the Scheme exceeds the estimated cost by 10% or more, the proposal shall be referred to Council for reconsideration and a resolution sought to either abandon the scheme or accept the Tendered Price and proceed with the work.

6.4.1.1 Notice of Demand for Payment

Following the decision of Council to proceed with the Scheme and its implementation through the Public Tender Process, a Notice of Demand for Payment will be served on all contributors indicating all the relevant scheme details and the charge or rate based on the accepted tender price.

The notice shall clearly indicate that this demand for payment is based on the tendered price for the contract work forming part of the estimated scheme total cost and may be subject to variation of up to a maximum of 10% of the amount stated.

Should demand for payment exceed the maximum variation of 10% of the amount stated, then the amount in excess shall be funded by Council.

6.4.2 Reconciliation and Report to Council

6.4.2.1 Special Charge Schemes

Schemes shall be finalised and reconciled within two months of finalisation of the works.

The responsible officer shall report to Council advising that the works are completed and costs finalised. The report will include final apportionment of costs and details where variations from original estimates affect final apportionments costs.

NOTE: In any case where the Special Rate or Charge is varied by any amount, notice is required to be given to all affected parties pursuant to Section 166(2) of the Local Government Act 1989.

7. Related Documents

The policy document is related to the Local Government Act 1989.

8. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy. Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Council departments or positions, change to names of Federal or State Government departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered by Council.

APPENDICES

APPENDIX 1	Apportionment Principles
APPENDIX 2	Summary of Procedure for Implementation of a Special Charge for Road Schemes Flowchart of Procedure
APPENDIX 3	Special Rates and Charges Calculation of Maximum Levy – Ministerial Guidelines 2004

APPENDIX 1

SPECIAL RATES AND CHARGES POLICY

APPORTIONMENT PRINCIPLES

Officers responsible for the detailed development of cost apportionment for contributory schemes should have regard to this policy and the following principles:

1.0 BENEFIT RATIO

The calculation of the maximum total levy for a scheme shall comply with the Ministerial Guideline applying to Section 163(2C) of the Local Government Act 1989 as promulgated in the Victoria Government Gazette G39 23 September 2004. In most cases this will yield the limiting amount for levying by way of a special charge scheme. However to ensure consistency with past practice the following guidelines shall also be regarded in determining the Benefit Ratio.

2.0 METHOD OF APPORTIONMENT

The general method of apportionment in residential areas is based on 80% for access benefit and 20% amenity benefit using the effective frontage guidelines set out in City of Knox Plan 225-A1.

3.0 FOOTPATH AND BICYCLE PATH PROJECTS

The construction of imperviously sealed paths, with the exception of those in Council reserves and projects prioritised within the Capital Works Program, Program 4006 – New Footpath Construction Program, are to be undertaken by Special Charge Scheme with full cost of vehicle crossings and footpath thickenings chargeable to owners. The maintenance of the constructed asset will be Council responsibility.

Contributions by adjoining owners to be based on fairness, equity and in the absence of special circumstance on the following guidelines:

3.1 Residential Area - Access Roads

Subject to Council paying for non-rateable land proportion. Then:

- Extent of scheme - abutting and opposite residences.
- Owners pay costs as derived.
- Individual charges based on Special Benefit derived from the calculation of maximum total levy and for through traffic that provides "Community Benefit".

Allow one Benefit Unit per residential Unit as determined by the Planning Scheme provision for the area (i.e. minimum Lot size for a residential unit).

Where a larger lot exists and more than one residential unit can be developed then an additional Benefit Unit should be charged for each additional potential development unit.

3.2 Residential Area - Residential Collector Road

Subject to Council paying for non-rateable land proportion. Then:

- Residences included in scheme where path is proposed.
- Owners charged 2/3 of scheme cost. (Subject to variation when using Maximum Levy calculation).
- Council pays 1/3 of cost.
- Benefit Unit based on residential unit and apportionment as above prescribed under Section 2.1.

3.3 Link Roads

- Due to the need to ultimately have paths on both sides, then abutting residents only will be included in the scheme. Owners charged on benefit unit basis of 1/3 scheme cost.
- Due to function of path to serve broader needs of the community, Council to meet 2/3 of cost of construction i.e. owners liable for 1/3 cost of footpath.

3.4 Arterial Road

- Due to function of path to serve broader needs of the community Council to meet 100% of cost of construction. Owners charged nil cost.

3.5 Recreational Paths

3.5.1 Path located in Council Reserve.

- Full cost to Council.

3.5.2 Shared Pedestrian/Cycle Paths

Owners of abutting and, where applicable, opposite residences are required to contribute to the normal 1.4 metre width path as prescribed for the various types of situations above. The extra width for cycle use, whether shared or segregated, being paid for by Council.

3.6 Paths in Commercial and Industrial Areas

Where an existing or proposed development requires construction of a footpath, the Council contribution shall not exceed 50% of the cost of the works unless special circumstances exist.

4.0 DRAINAGE CONSTRUCTION SCHEMES

Council's policy is aimed at making drainage schemes equitable and creating an incentive by offering the following:

- Council will contribute 10% of the total cost of works as a subsidy.

For all property drainage schemes apportionment shall be undertaken on the following basis:

- All properties which benefit from the construction of the drain by being able to connect to the drain or receive protection by the drain shall be included in the scheme.
- The determination of benefit to be derived from the construction of such drains shall be at the discretion of Council with the liability being assessed on the general basis that properties contributing to the drain and being protected by it will be treated equally on an area basis.

Special Rates and Charges Schemes shall not be applied in the provision of public drains where the works:

- are considered minor;
- can be delivered for an estimated cost of \$50,000 or less;
- will improve amenity, safety and health;
- will mitigate local flooding;
- can be delivered with minimal consultation;
- are unencumbered by other infrastructure needs (ie. the scheme does not require road construction, kerb and channel or other works);
- satisfies a missing link in the drainage network; and
- is uncomplicated to deliver.

5.0 ROAD CONSTRUCTION SCHEMES

5.1 Policy for Unsealed Roads Program

Council's policy is aimed at making road schemes equitable and creating an incentive by offering the following:

- i Council will make an allowance for through traffic and pay the percentage of works as a "Community Benefit".
- ii Council will also pay the proportional cost share of the non-rateable component.
- iii Council will contribute 10% of the total cost of works as a subsidy.

Full cost of vehicle crossings and footpath thickenings to be met by owners.

Council maintains constructed asset.

5.2 Access Roads

Cost to owners based on using guidelines in Appendix 3 part H and I for Benefit Ratio and Calculation of Maximum Benefit and apportioned on the basis of Benefit Unit and/or Frontage. (Refer to Council Plan No. 225-A1 when frontage is to be considered).

The actual cost to owners is based on a calculation of Maximum Levy which now exempts non-rateable property. An allowance for through traffic component with a community benefit is to be used as shown in Appendix 3.

5.3 Collector Roads

Cost to owners using through traffic volumes as community benefit and based on the attached Benefit Ratio and Calculation of Maximum Levy and cost as for residential streets and exempting non-rateable land.

5.4 Arterial Roads

Full cost of Road Pavement to Road Authority (i.e. Council or VicRoads).

Half cost of kerb and channel to owner; half cost to Road Authority.

6.0 OFF STREET CAR PARKING SCHEME (RATE OR CHARGE)

6.1 Retail

The cost to be recovered shall be apportioned to those properties which will derive a benefit. Have regard to existing and potential shop size, type, proximity and any provision or contribution towards spaces provided.

6.2 Commercial

Costs to be apportioned to beneficiaries on the basis of leasable floor space and proximity and any previous contributions or provisions.

7.0 COUNCIL CONTRIBUTIONS

General principles to follow:

A Council contribution should occur where there is an identifiable benefit received from a project to persons other than those landowners determined as being liable for the Special Rate or Charge (e.g. a street being constructed that is used as a through road to serve other streets). This is generally known as "Community Benefit" as defined and used in Appendix 3.

A Council contribution may occur on behalf of a non contributing Government Authority which has a property within the boundary of a Scheme. (Section 221(3) states that Crown land cannot be included in a Special Rate or Charge). Council will pay the proportional costs of the non-rateable land.

A Council contribution will occur where there exists Council owned property within the boundary of a Scheme. The extent of contribution should be based upon the existing or potential equivalent benefit received compared to other properties included in the Scheme.

A Council contribution should occur for replacement, modification or reinstatement of any existing infrastructure affected by a proposed project.

A Council contribution should occur for works included in a project that are for the main benefit of the wider community or landowners outside the designated area of a proposed Special Charge Scheme.

An increased Council contribution may occur for locations:

- where severe slope and terrain require more significant works than for general locations;
- where user or community safety is of concern;
- where significant risk management issues to Council exist;
- where excessive maintenance costs of the existing conditions are being incurred by Council.

APPENDIX 2

SUMMARY OF PROCEDURE FOR IMPLEMENTATION OF A SPECIAL CHARGE SCHEME FOR ROAD CONSTRUCTION

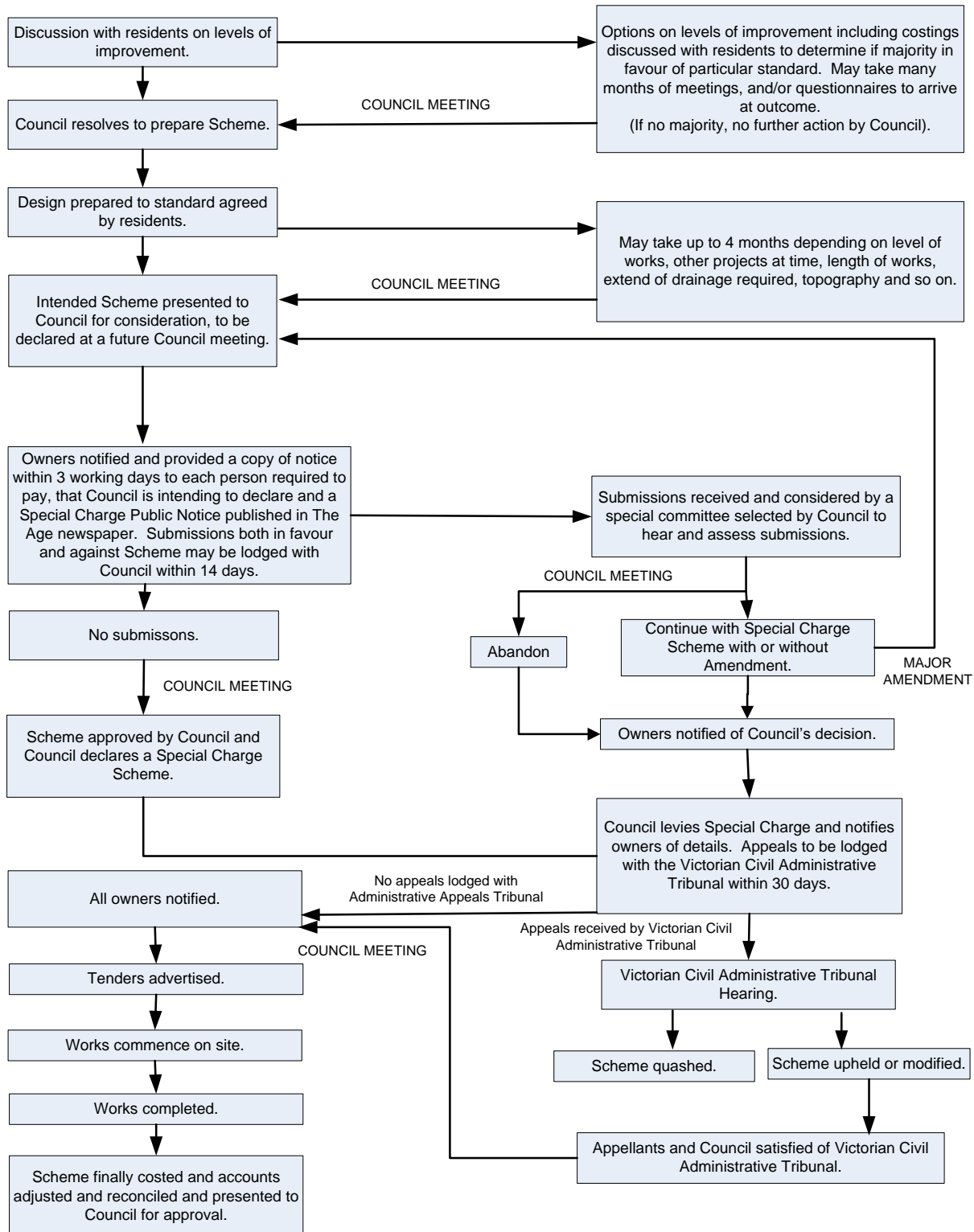
1. A report is prepared and presented to Council requesting Council resolve to approve the preparation of a Scheme as a result of a request and consultation with landowners.
2. Survey, design plans and scheme prepared in accordance with landowners. (This step may take several months depending on the length of the street, the extent of drainage required, topography etc.)
3. A report is prepared and presented to Council to consider the Intended Scheme.

Council may either:

- approve the intended scheme and agree to proceed and declare at a future meeting; or
 - decide not to proceed with the intended scheme.
- 4(a) If Council resolves to proceed, liable landowners shall be notified and a public notice published. Submissions, both in favour and against the scheme, may be lodged with the Council within 14 days.
 - 4(b) When Council gives public notice of a proposed special rate or charge it must, within three working days, send a copy of the public notice to each person who will be required to pay the rate or charge.
 5. A person who has made a submission may apply to Council to speak in support of their submission before the Council. A committee of the Council must consider any written submission which is received by the Council within 14 days after the publication of the public notice.
 - 6(a) A report is prepared and presented to Council, to declare and adopt the Special Charge, with or without modification or may decide to abandon the scheme.
 - 6(b) If the Council resolves to proceed, notice is served on landowners stating details of scheme, charge liable and advising that persons aggrieved by Council's decision may (within 30 days) apply to the Planning division of the Victorian Civil Administrative Tribunal for a review of the decision.
 7. If no submissions are received by the Victorian Civil Administrative Tribunal, Council proceeds to administer the scheme.
 8. If Submissions are received by the Victorian Civil Administrative Tribunal, a date shall be set by the Tribunal to consider the submissions.
 9. Tribunal conducts the hearing and advises those who made submissions and Council of its decision. A time delay up to four months can be experienced while waiting for a hearing time to be set and a decision to be handed down.
 10. A report is presented to Council to finalise the scheme details and determine the scheme will proceed or otherwise.
 11. All landowners liable are advised of whether the scheme has been approved or abandoned.

12. If the scheme is approved, the works are tendered out to obtain the most competitive price.
13. Council considers tenders received and resolves to award the contract for the scheme.
14. Works commence.
15. Payment will generally be aligned with your payment of municipal rates, as described in the notice sent to landowners and will be based on the estimated cost of works
16. Following completion of works, actual costs are calculated and become the final amount payable by landowners. If the actual cost is less than the estimated cost, a refund is forwarded to those landowners whose payment has been received in full. If the actual cost is greater than the estimated cost, landowners are advised and become liable for the additional cost, (up to 10% above the estimated cost of works). Where instalments are being paid by a landowner, these are adjusted as appropriate.

Knox City Council TYPICAL PROCEDURE FOR IMPLEMENTATION OF A SPECIAL CHARGE FOR ROAD AND/OR UNDERGROUND DRAINAGE IMPROVEMENTS



APPENDIX 3

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

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.
 - b. Costs included in the *total cost* may only be for expenses listed in section 163(6) of the Act.
 - 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).

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.

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.
- 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 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.