

Policy No.:	IS008	<i>IS008 – Special Rates and Charges Policy</i>
Review Date:	December 2016	
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1. Purpose and Scope of the Policy

The Local Government Act 1989 provides Council with the ability to introduce a Special Rate or Charge Scheme seeking property owner contributions toward infrastructure projects such as roads, footpaths and drainage improvements. A Special Rate or Charge Scheme may also be appropriate for projects such as recreational facilities, streetscapes and traffic management.

Special Rate or Charge Scheme projects fill the gap between existing infrastructure, often provided as part of the original land development, and current community expectations.

This policy seeks to establish a strategic framework for the application of financial contributions from the property owners who receive special benefit from necessary infrastructure improvements, both in the rural and urban areas within the municipality, in a fair, equitable, consultative and consistent manner.

This policy applies to all infrastructure improvements within Moorabool Shire which are eligible for application of a Special Rate or Charge as defined in the Local Government Act.

2. Policy

The Council acknowledges that it does not necessarily have the financial resources or receive enough external grants funding to meet all of the infrastructure demands in the municipality. Where it can be demonstrated that properties will receive a special benefit from implementing necessary infrastructure works, Council may implement a Special Rate or Charge process to provide some or all of the necessary funds. Schemes may be applied, but not limited, to the following:

- Road construction and sealing
- Kerb and channel
- Drains and drainage pits
- Landscaping.
- Traffic management devices
- Footpaths
- Recreational facilities
- Special events

A proposed Special Rate or Charge will have regard to the level of special benefit and community benefit received from such infrastructure works and Council's capacity to finance the necessary cash flow requirements during the term of the Special Rate or Charge Scheme.

The calculation of 'special benefit' will be undertaken in accordance with the Special Rates and Charges Ministerial Guidelines (September 2004)

The intent of this policy and associated management procedure is to detail the circumstances and manner in which new or improved infrastructure works are undertaken with financial contributions from property owners based on principles of fairness and equity. This contribution shall be obtained through a Special Rate or Charge Scheme having regard to the level of special benefit received by those properties and the level of benefit received by the community.

Community consultation and participation will play an important part in the development of specific projects. Many proposals will only be implemented if they have the strong support of property owners. Clause 163 of the Local Government Act does however empower Council to declare a drainage scheme in the interest of public health.

This policy reflects the objectives of the Special Charge Scheme provisions in the Local Government Act and its implementation is supported by the September 2004 Ministerial Guidelines on Special Rates and Charges.

2.1 Policy Objectives

- To manage the Special Rate and Charge Scheme process in a manner that is open, transparent, and fair to all.
- Use the consultative process and technical design input to achieve innovative solutions to local problems.
- To ensure that solutions developed are cost effective, affordable and of a standard that meets community expectations.
- To ensure that the development of necessary infrastructure projects in a controlled, managed manner. This will involve the prioritisation of projects, having regard to risk and other factors such as:
 - Health and safety
 - Amenity
 - Environment
 - Demonstrated need; and
 - Financial

2.2 Specific Provisions

- Properties with subdivision potential – properties which demonstrate subdivision potential will be included in the scheme in accordance with the relevant zoning provisions. Property owners will have the option to defer the special charge on the additional lots (lots created after subdivision) until such time as the subdivision is released (Statement of Compliance). A Section 173 Agreement will be required to enable deferment of the additional special charge.
- Construction standard – design and construction standards works will be undertaken in accordance with relevant standards, guides, codes and the Infrastructure Design Manual.
- Council contribution – with the following exceptions, Council contribution to all special charge schemes will be based on the community benefit calculated in accordance with the Special Rates and Charges Ministerial Guidelines.
- For pathway schemes based on a precinct approach, Council may contribute up to 50% of the project cost to be determined on a case by case basis.
- Payment terms – property owners liable for scheme contributions that are infrastructure related and exceed \$1,500 will have the option to pay the

charge in instalments over a period of minimum of 4 years and up to 10 years. The applicable borrowing interest rate will be applied to the unpaid special charge. Schemes that require contributions less than \$1,500 will have the payment option of 4 instalments over a 12 month period.

- Submissions and objections to any proposed scheme and subsequent decision whether to discontinue a scheme will be in accordance with the Local Government Act.

2.3 Community Engagement

A community engagement plan will be developed for each scheme in accordance with the Community Engagement Framework and provisions of the Local Government Act.

2.4 Policy Implementation

The special rate or charge process may be initiated by Council representatives, members of the public, residents within the area, or Council officers. The final outcome of many proposals will depend to a large degree on the priority placed upon the work, the level of community support, available funding and cash flow resources.

3. Process

The process is outlined in the Special Rates and Charges Procedure and Special Rates and Charges Ministerial Guidelines (September 2004) which are appendices this policy.

4. Precedents

Many Councils adopt a Special Rates and Charges Policy seeking property owner contributions toward infrastructure projects. A small number of Special Charges Schemes have been implemented previously in this Shire.

5. Related Legislation/Policies/Guidelines

- Local Government Act 1989 and subsequent amendments
- Special Rates and Charges Ministerial Guidelines (September 2004)
- Community Engagement Framework
- Council Policies
- Sealing of unsealed roads

6. Council Plan Reference – Key Performance Area

Key Result Area 3 Enhanced Infrastructure and Natural and Built Environment

Ensure current and future infrastructure meets the needs to the community

Construct physical infrastructure to appropriate standards.

7. Review

This policy will be reviewed in 2016.

8. Definitions

Special Rate or Charge Scheme	A financial arrangement, between Council and property owners as set out in the Local Government Act, to provide funds in relation to necessary infrastructure works that Council considers is or will be of special benefit to persons required to pay the special rate or charge.
Special Benefit	Is benefit, resulting from the proposed infrastructure work that is additional to or greater than the benefit to other properties.
Community Benefit	Is considered to exist where the works or services will provide tangible and direct benefits to people in the broader community.
Infrastructure Works	Consists of new, or improvements to, infrastructure such as roads, pathways, stormwater drains, buildings, recreational facilities and waste management sites.
Property	Refers to property in the form of land.
Council	Moorabool Shire Council
Shire	The Moorabool municipality, its Councillors, Council staff, residents and ratepayers.

APPENDIX A

Special Rates & Charges Procedure

References	Special Rates and Charges Policy
Effective From:	5 February 2014
Version No:	001

Scope

The 1989 Local Government Act provides Council with the ability to introduce a Special Rate or Charge Scheme seeking property owner contributions toward infrastructure projects such as roads, footpaths and drainage improvements.

Special Rate or Charge Scheme projects fill the gap between existing infrastructure, often provided as part of the original land development, and current community expectations.

This document seeks to establish a procedure for the application of financial contributions from the property owners who receive special benefit from necessary infrastructure improvements, both in the rural and urban areas within the municipality, in a fair, equitable, consultative and consistent manner.

This procedure will be used to apply Council's Special Rates and Charges Policy.

1. Initiation

A special charge for the purpose of Road Construction may be initiated by a ratepayer, Councillor, Council staff or by an existing Council resolution proposing a Scheme under Section 163 of the Local Government Act 1989.

A special charge for the purpose of the provision of Property Drainage Services may be initiated by a ratepayer, Councillor, Council's Environmental Health Officer or other Council staff.

Upon receipt of an initiating document, Council Officers will prepare a preliminary report to Council. This preliminary report will address the following:

- a. Scope of works.
- b. Whether the works are within the powers and functions of Council.
- c. Whether the works will be of special benefit to the persons required to pay a potential special charge for this purpose.
- d. The need for the works taking into account matters of health, safety and amenity.
- e. Identification of the likely beneficiaries of the works (refer to Section 4.0).
- f. A preliminary cost which provides a broad indication of costs per affected property.
- g. Community engagement.

Council shall then determine whether or not to proceed with a process of preliminary consultation.

2. Preliminary Consultation

Once a decision has been made by Council to commence preliminary consultation the likely beneficiaries will be advised of the content of the preliminary report and requested to complete a survey indicating their support or otherwise for the scheme.

The survey shall clearly outline what the proposed works involve and provide an indication of the cost that would be incurred and the options for payment that are available. This consultation shall aim to determine whether there is support for the proposed works.

3. Report on the Consideration of a Special Charge

Council Officers will then provide a report to Council on the outcome of this survey and consultation. Included in the report will be a recommendation that Council either take no further action or proceed with the preparation of a special charge scheme, either in the proposed form or an alternative structure as may have been identified through the consultation.

If there is a recommendation for a special charge scheme, the report will contain the following:

- a. The consideration of a special charge.
- b. The beneficiaries of a potential special charge.
- c. Design plans or other information sufficient to determine the beneficiaries of a potential special charge.
- d. Estimate of costs.
- e. The criteria used to determine the special benefit and the degree of special benefit to beneficiaries (refer to Sections 4 & 5).
- f. The distribution of the costs.
- g. The period for which a potential special charge remains in force.
- h. Council contributions that are the result of the 'community benefit' provision within the legislation.

Council will resolve to either abandon, alter or give public notice of its intention to make declaration of a special charge. The potential beneficiaries will be advised of Council's decision.

If Council decides to give public notice of its intention to make declaration of a special charge, the procedure detailed in Section 163 of the Local Government (Democratic Reform) Act 2003 will be followed. Section 163 of the Local Government (Democratic Reform) Act 2003 has provisions for formal submissions from affected property owners to Council and also to the Victorian Civil and Administrative Tribunal. Details of the proposal will be made available for inspection throughout this process.

4. Criteria to Determine Special Benefit

Road and Footpath Construction

The criteria are whether the road and footpath construction provides a special benefit to owners of lands that abut the road and therefore use the road as direct access to their property. Council can only declare a special charge on land which is rateable, as provided under Section 155 of the Local government Act 1989.

Drainage Services

A drain shall provide a special benefit to lands which have the following characteristics:

- a. Abutting the said drain on the high side which are able to direct water to the drain.
- b. Abutting the said drain on the low side which receive protection by virtue of the drain.

Both a. and b. shall be determined by considering the contour of the land. The existence or evidence of any private stormwater discharge away from the proposed drain shall bear no relevance in determining the lands which will derive a special benefit.

Other Infrastructure Projects or Services

Where Council seeks to implement a Special Charge Scheme for non road or drainage related services, the special benefit will be determined on a case by case basis with consideration of the Special Rates and Charges Ministerial Guidelines – September 2004.

5. Criteria to Determine Degree of Special Benefit

Road and Footpath Construction

The criteria to determine the degree of special benefit that the road and footpath construction provides will generally be based on Access Benefit (the ability to gain access to the property from the constructed road) and Amenity Benefit (increased amenity such as reduction in dust, health related issues, aesthetic value etc). VCAT has accepted these criteria as fair and reasonable in relation to previous decisions.

The Access Benefit would be a unit value unless the property has been developed.

The Amenity Benefit is related to the frontage (the length of the abuttal to the road).

For corner properties 100% of the frontage and 30% of the side frontage (if applicable) that abuts the road will be used.

In order to achieve an equitable outcome a 60% weighting will be given to Access Benefit over Amenity Benefit (40%), especially where properties in the scheme have varying frontages as residents with wider frontages may be required to contribute substantially more than those with properties with narrower frontages.

Drainage Services

The criteria to determine the degree of special benefit the drain provides shall be:

- a. Both higher and lower lands share liability equally and costs are based on the area of each individual allotment rationalised to consider the flow path of surface water to the drain and rationalised to consider the extent of protection by virtue of the drain.

The percentage ration of impermeable to permeable surface contained within an allotment shall bear no relevance other than the flow path of surface water in determining such liability for each individual allotment.

Council is required to consider the total special benefits derived from the construction of a road or drain to every party that would derive benefit from such construction. This could include special benefits to those that are not to be included in the scheme, or community benefits.

Other Infrastructure Projects or Services

Due to the vast array of infrastructure and services that might attract the use of Special Charge of Special Rate Schemes, any non drainage or road related schemes will be treated on a case by case basis with a view to maintaining equity. In each case, the officer will take into account apportionment systems that have been used within Victoria and in particular those that have been accepted by VCAT. Consideration will also be given to the Special Rates and Charges Ministerial Guidelines – September 2004.

6. Design Criteria for Road Construction and Drainage Services

Road and Footpath Construction

Council will utilise Council's standard specifications for the construction of roads and footpaths and relevant Australian Standards for the purpose of this policy. However, Council's standard specification may be modified or altered where necessary.

Drainage Services

Council shall adopt Council's standard specifications for the construction of property drains and relevant Australian Standards for the purpose of this policy. Council's standard specification may be modified or altered at the discretion of the engineer. In addition, the minimum pipe size for the purpose of this policy shall be 300mm in diameter.

7. Private Assets Contained within Alignment of Drain

In the event of the proposed alignment of the drain being obstructed by vegetation, buildings or other permanent or temporary assets and there being no other suitable alternative alignment for the drain, the cost associated with the removal and/or relocation of such obstructions shall form a component of the costs associated with the special charge.

8. Council Contribution

Council will contribute towards the cost of the works constructed under this policy under the following circumstances:

- a. Where Council owned land abuts the unmade road.
- b. If Council determines abnormal circumstances make it appropriate for Council to contribute to the construction of the road, drain or other infrastructure.
- c. Where it has been determined that there will be a special benefit as a result of the construction to parties that are not to be included in the scheme or there will be a benefit to the wider community (community benefit), Council is required to contribute an amount proportional to the benefit derived. It is noted that the legislation is specific about the circumstances and level of contribution by Council for 'community benefit'.
- d. Parties to a scheme that have previously contributed under current or previous provisions within the Local Government Act cannot be required to contribute again. In this event Council will be required to contribute that portion or exclude those works from the scheme.
- e. Where Council considers that the size of the drain should be increased to provide for stormwater other than for the benefiting properties, Council shall contribute the additional cost associated with the provision of such drainage.

9. Appointment of Contractor

The tender process for the works will be in accordance with Council policy.

10. Administration Costs

Council shall recover administration costs of up to 10% of the actual total cost of the works. This administration cost is to be funded from the special charge and is to recover costs incurred in the design, supervision and administration of the works.

11. Variation for the Estimated Cost

Once works have been completed owners who are liable must be advised of the actual cost of the works. If the cost of the special charge results in a material increase above the estimated amount, Council is required to give public notice and consider public submissions in accordance with Section 223 of the Local Government (Democratic Reform) Act.

If the cost of the actual works is below the estimate cost, all owners included in the special charge scheme shall be refunded proportionately.

12. Options for Payment

Payment of a special charge will be made in a lump sum payable within one month of commencement of the work or by a maximum 40 quarterly instalments over 10 years commencing within one month of commencement of the work. The interest payment on the instalment option will be in accordance with Council policy.

13. Connection to Drain Constructed under Special Charge

The connection of premises to the drain is an owner's responsibility. Upon the completion of the drain, Council shall notify that fact to owners of the land to be drained and require them to connect their premises (at their cost) or demonstrate an intent to connect to the drain within one month of this request. Drains within properties less than 2.0 metres from the alignment of the drain will be considered part of the works associated with the special charge. Such drains shall be connected by the appointed contractor at no extra charge to the property owner.

14. Appeals

People are entitled to make written submissions to the Council regarding a proposed special rate or charge and, if they wish, they may request to appear in person to present their case to a Council or committee meeting. Under section 223 of the Local Government Act, the Council is required to consider all submissions that are received within 28 days of the public notice, although Councils may allow a longer time for submissions.

If the Council is proposing to raise more than two thirds of the total cost for a project as a special rate or charge the affected ratepayers must also be given a formal right to object. If objections are received from a majority of properties within 28 days the Council cannot approve the special rate or charge. This objection process does not apply for drainage schemes that are required for public health.

Under certain conditions people who are required to pay a special rate or special charge may appeal to the Victorian Civil Administrative Tribunal (VCAT). Rights of appeal to VCAT are subject to a number of limitations, including time limitations.

APPENDIX B

2004 Ministerial Guidelines

SPECIAL RATES AND CHARGES

Ministerial Guideline

September 2004

Local Government Victoria
Level 14, 1 Spring Street,
Melbourne, Vic, 3000
(03) 9208 3430

*Department for
Victorian Communities*



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.

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.

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.

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, 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)

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, 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

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.

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,

- 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

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.