

Special Rates and Special Charges Scheme Policy



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1. Purpose

The purpose of this Special Rates and Special Charges Scheme Policy (Policy) is to set out when Council may consider and implement the use of Special Rate and Special Charge Schemes for the provision of new or updated infrastructure works.

2. Scope

This Policy applies to the establishment and operation of a Scheme for recovery of the cost of new or updated infrastructure works where specific properties gain a special benefit from their construction, upgrade, or where there is a substantive change to the original function of the infrastructure. Examples include but are not limited - to the construction or upgrade of constructed, formed only, or unconstructed – roads (inclusive of laneways), pathways, drains, bridges, public lighting, traffic management devices, and car parks.

This Policy does not apply to the recovery of costs for Council services in which case, the provision of the Act will apply on a case-by-case basis.

3. Governance Principles and Council Plan alignment

3.1 Governance Principles

This Policy aligns with the following governance principles:

Principle (b) - priority is to be given to achieving the best outcomes for the municipal community, including future generations.

Principle (d) - the municipal community is to be engaged in strategic planning and strategic decision making.

Principle (i) - the transparency of Council decisions, actions and information is to be ensured.

3.2 Council Plan Alignment

Strategic Direction: Well-governed - Council will be collaborative, accountable, transparent, responsive, well-informed, and efficient.

Strategy: Focus all of our decision-making on the long-term best interests of the Kingston community.

4. Policy Details

Council may establish a Scheme for new infrastructure works where a group of property owners or occupiers will receive a special benefit over and above that received by other general ratepayers. Each Scheme is unique and will be developed on a case-by-case basis.

A specific communication and consultation plan will be developed for each proposed Scheme. All members of the Scheme shall have an opportunity to provide feedback to Council and discuss issues with relevant Council Officers.

4.1 Scheme Initiation

A request to create a Scheme may come from property owners, occupiers of land, or special interest groups. A Scheme may also be initiated by the Council.

Council Officers will analyse the scope of the proposed project for the Scheme; determine whether it should be a Special Rate or a Special Charge; prepare a project brief with cost estimates; and identify all potential contributors to the proposed Scheme.

Council Officers will prepare an estimate of the total project costs and a draft allocation of costs for each proposed Scheme member. The method of apportioning costs shall be in accordance with the LGA 1989 and the Ministerial Guidelines.

In providing infrastructure Schemes, Council will consider the timing of the required works with regard to Council's 5 Year Capital Works Program. Only relevant infrastructure works designed to Council's typical standard specification will be included in a Special Rate or Special Charge Scheme. Where the Scheme members request a higher standard of infrastructure than the standard specification, the additional cost of the higher standard will not be borne by the Council.

The General Manager Infrastructure & Open Space shall review the project brief and, after consideration of the merits of the proposed project, direct Council Officers to either:

- a) undertake initial consultation with persons who have been identified as having a Special Benefit;
- b) approve the project for future consideration in-line with the timing requirements of Council's long term financial plan;
- c) reject the request, or
- d) direct Council Officers to investigate alternative approaches to achieve the desired outcome.

In each case, affected parties shall be notified by a Council Officer in writing.

4.2 Preliminary or initial consultation

Council Officers will, through questionnaires and other communication options, identify all potential contributors to the proposed Scheme.

The communication plan should be designed to ascertain the proposed Scheme members and the level of support for the proposed Scheme. The communication plan may include the:

- a) estimated total project costs (if ascertainable); and
- b) method of apportioning costs; and
- c) allocation for the particular member of the proposed Scheme.

If a person has asked for a Scheme and that person gains all the Special Benefit of the infrastructure works, that person may be required to contribute 100% of the maximum total levy for the infrastructure development costs, which is the total cost less the amount apportioned to public benefit.

4.3 Council report following initial consultation

Following preliminary or initial consultation, Council (and or Officers) may set a threshold level for support for the Scheme or may otherwise consider proceeding based on grounds of safety, health, or amenity.

A preliminary report shall be prepared by Council Officers for Council outlining the proposed Scheme, costs, and recommendations of the Council Officers. The Council report should provide an analysis of the preliminary consultation and, if recommended to proceed, time phasing of the project and funding sources.

4.4 Scheme development

If the Council decision is to proceed with the proposed Scheme, Council Officers will prepare preliminary and final designs, cost estimates, and apportionment schedules for the proposed Scheme.

A further communication plan will be prepared for provision to the proposed members of the Scheme.

Council Officers responsible for the preparation of the Scheme, must maintain a high level of consultation with all parties including other statutory authorities if required. This includes advising all parties of their appeal or objection rights.

4.5 Ministerial guidelines

The LGA1989 inclusive of the Ministerial Guidelines must be used to prepare the Scheme and calculate the maximum total levy.

4.6 Statutory requirements for Scheme adoption

Council Officers must comply with the provisions of the LGA 1989 and any associated regulations and the Ministerial Guidelines to declare a Special Rate or Special Charge.

Council must not levy a Special Rate or Special Charge until all the legislative requirements have been met including, but not limited to:

- a) resolving to levy the Special Rate or Special Charge for the Scheme;
- b) providing public notice of its intention to declare the Special Rate or Special Charge;
- c) considering submissions; and
- d) considering instalment plans where the Scheme relates substantially to capital works.

4.7 Scheme implementation

Schemes will be implemented in accordance with the detailed plans provided to the contributors and/or as resolved by Council.

Infrastructure Schemes shall be delivered via public tender or panel provider in accordance with the Kingston City Council Procurement Policy.

In the case where the Special Rate or Special Charge is varied by any amount, notice is required to be given to all affected parties in accordance with the LGA.

4.8 Scheme end

Infrastructure Schemes shall be finalised and reconciled within two months of completion of works to the satisfaction of the relevant Council Officer.

The responsible Council Officer must report to Council advising that the works are complete, and costs finalised. The Council report must include final apportionment costs and provide details where variations have arisen.

4.9 Private development requirements

Where a developer seeks development or upgrade of public works for a private development, Council may require the developer/owners of the private land in question to pay for the cost of the upgrade of those public works. For example, if a development proposal requires a substantive change to the function of an adjacent Road, it is Council's expectation the developer will make a substantial contribution to the construction of that road.

Where the proposed development requires a substantive change to the function &/or classification of the public works, then a contribution to the upgrade of those works may be imposed by way of a condition on a planning permit. Examples of change include:

- The lane will require two way traffic movements in part or whole for safe management of traffic into and out of the site
- Splays need to be provided for safety requirements
- A tree reserve is required to provide a buffer between the road and abutting properties
- The lane requires additional width to allow safe vehicle movements in and out of the abutting properties
- Upgrading to the Council drainage system to manage stormwater from the site

Contributions will be accepted in two ways, both to be implemented through an agreement made pursuant to section 173 of the Planning and Environment Act 1987 (Vic) &/or the Subdivision Act 1988 (Vic), where applicable:

- direct contribution of the cost of the infrastructure development to Council. In this case Council will manage the construction of the infrastructure changes; or
- through delivery of the works. In this case the developer takes responsibility for construction to the satisfaction of the Manager Infrastructure. Additional permits fees for asset protection and construction approval will apply. An instalment option for payment of the contribution will be considered over a period of not less than 4 years.

The cost of the infrastructure development, the standard of the approved construction works, and the party responsible for construction shall all be determined by the Manager Infrastructure. The developer/applicant will be consulted on the design and construction specifications.

4.10 Transitional arrangements

Existing projects at the date of adoption of this Policy are not subject to those parts of this Policy that have already occurred.

5. Key Stakeholders (if applicable)

This Policy includes the following stakeholders.

- Infrastructure Department
- Legal Department
- Finance Department

6. Internal and External Assessments

6.1 Risk Assessment

This Policy has been assessed by the relevant department and is considered low risk.

6.2 Delegation and Authorisation (Compliance Framework)

Refer to Council's Instruments of Delegations.

6.3 Gender Impact Assessment

A Gender Impact Assessment was completed and identified that there is a low impact which affects gender diverse people.

6.4 Privacy Impact Assessment

A Privacy Impact Assessment is not required for this Policy.

6.5 Human Rights Charter

This Policy has been reviewed against and complies with the Charter of Human Rights and Responsibilities Act 2006.

7. Roles and Responsibilities

Role	Responsibility
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General Manager Infrastructure and Open Space	Review project brief and direct Council Officers on how to proceed
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8. Related documents

8.1 Legislation

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Road Management Act 2004*
- *Special Rates and charges Ministerial Guideline – 2004*
- *Subdivision Act 1988*

8.2 Documents and resources

- *Consultation and Engagement Policy*
- *Procurement Policy 2021*

9. Definitions

Term	Definition
<i>LGA 1989</i>	Local Government Act 1989 (Vic)
<i>Ministerial Guidelines</i>	Means the guidelines prepared pursuant to the Act by the Minister for Local Government relating to the calculation of the levy for Special Rates and Special Charges.
<i>Road</i>	Has the same meaning as in the LGA 1989
<i>Scheme</i>	A Special Rate or Special Charge for the purpose of development or upgrading of infrastructure.
<i>Special Benefit</i>	A benefit received by one group of people that is over and above that received by others.
<i>Special Rate and Special Charge</i>	Have the meanings set out in the LGA 1989