



# Special Rates and Charges Policy (Draft)

DRAFT

## CONTENTS

1.	PURPOSE.....	3
2.	SCOPE.....	3
3.	POLICY STATEMENT.....	3
4.	PROCEDURES.....	6
5.	SUPPORTING INFORMATION.....	6
6.	RESPONSIBILITIES.....	6
7.	DEFINITIONS OF TERMS OR ABBREVIATIONS USED.....	7
8.	RELATED LEGISLATION AND DOCUMENTS.....	7
9.	APPENDIX.....	7
10.	HUMAN RIGHTS STATEMENT OF COMPATIBILITY.....	8
11.	POLICY OWNER.....	8
12.	FEEDBACK.....	8
13.	DOCUMENT INFORMATION.....	8

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## 1. PURPOSE

This Policy outlines the use of Special Rates and Charges Schemes for Infrastructure Improvement works across the Shire. Special Rates and Charges Schemes include contributions from property owners deriving benefit from any works, based on the principles of fairness and equity.



## 2. SCOPE

2.1 This Policy applies to all Infrastructure Improvement Works across the Golden Plains Shire Council eligible to be funded in part or fully by the application of a Special Rates and Charges Scheme. The application of a Special Rates and Charges Scheme can be considered for projects such as:

- New sealed roads
- Sealing unsealed roads or laneways
- Widening sealed roads
- Traffic management
- Kerb and channel
- Footpaths
- Drainage works – easements, drains
- Street lighting
- Marketing and promotion

2.2 Detail design and project management costs associated with delivery of projects can be included in overall project costs for inclusion in Special Rates and Charges.

2.3 Special Rates and Charges schemes must comply with requirements of the *Local Government Act (1989)*.

## 3. POLICY STATEMENT

3.1 Where it can be demonstrated properties will receive a direct benefit from upgraded or new infrastructure works, Council may implement Special Rates and Charges to fund some or all of the costs of the works. A proposed Special Rates and Charges Scheme will have due regard to:

- Level of benefit gained by adjoining property owners
- Level of benefit attributed as community benefit
- Council's capacity to finance the works during any term of the Special Rates and

## Charges Scheme

- 3.2 The calculation of the benefit to be used in a Special Rates and Charges Scheme will be undertaken in accordance with requirements of the *Local Government Act* (1989) and any other regulatory requirements, as well as Ministerial guidelines that are issued from time to time. In calculating the benefit and cost apportionment to benefiting property owners, a number of factors are to be considered such as:
- 3.2.1 The number of benefiting properties
  - 3.2.2 The length of abutting boundaries
  - 3.2.3 Lot sizes
  - 3.2.4 Land zoning and future subdivision potential
  - 3.2.5 Number and location of property accesses
  - 3.2.6 The type(s) of special benefit(s) accruing to the land
  - 3.2.7 Any other matter that provides a reasonable basis of apportionment
- 3.3 Council will contribute a percentage of the total cost or services where a community benefit has been identified. Councils generally fund the community benefit portion of costs from rates income. Council's contribution will be based on:
- 3.3.1 The cost of providing works to a standard higher than what is normally required for a particular asset – eg, wider streets
  - 3.3.2 The proportion attributed to community benefit
  - 3.3.3 The proportion attributed to Council owned or managed land that abuts the works
- 3.4 Costs to be included in a Special Rates and Charges Scheme for infrastructure projects will include:
- 3.4.1 Preliminary and detail design
  - 3.4.2 Community consultation
  - 3.4.3 Construction
  - 3.4.4 Project management
  - 3.4.5 Administrative costs
- 3.5 Proposed Special Rates and Charges Schemes will be subject to extensive consultation with impacted property owners in accordance with legislative requirements.
- 3.6 In general, the steps in a Special Rates and Charges Scheme (SRC) are as follows, with consultation actions highlighted:
- 3.6.1 Step 1 – Project Assessment: Potential SRC projects are determined by whether the project fits with Policy requirements (usually link to Council Plan). Projects can be identified by Councillors, staff or community members.
  - 3.6.2 Step 2 – Scheme initiation: Initial support for an SRC scheme is determined through a **survey of benefiting property owners**, outlining proposed works or services, an indication of the cost to benefiting property owners, and the options available for payment.

- 3.6.3 Step 3 – Intention to Declare / Abandon Scheme: A Council report is prepared based on the outcome of the survey findings with a recommendation to either abandon the scheme or for Council to give notice of its intention to declare a SRC scheme.

If Council resolves to give notice of its intention to declare an SRC scheme, it must **publish a Public Notice**. In addition, it must send a **letter advising of this decision, including a copy of the Public Notice, to all benefitting property owners within 3 days** of publishing the Public Notice. The letter includes the information contained in the Public Notice, as well as advice that submissions may be lodged by any benefitting property owner.

In accordance with the *Local Government Act 1989*, the Public Notice must as a minimum:

- Contain an outline of the proposed declaration; and
- Set out the date on which it is proposed to make the declaration; and
- Advise that copies of the proposed declaration are available for inspection at the Council office for at least 28 days after the publication of the notice.

If Council resolves to abandon (or not declare) an SRC scheme, the affected property owners will be **informed of this decision**.

- 3.6.4 Step 4 – Written submissions received within the nominated time frame (28 days minimum) to be considered by Council. A **person may address Council** to provide verbal submission in support of a written submission.

Section 163B(6) of the *Local Government Act (1989)* relates to Special Rates and Charges schemes intended to recover an amount that exceeds two thirds of the total cost of a project and states:

*A Council can not make a declaration if the Council receives objections from persons who will be required to pay the special rate or special charge in respect of a majority of the rateable properties in respect of which the special rate or special charge would be imposed.*

This Council policy sets the minimum level of support from contributing properties for any Special Rate and Charge project at 60%.

- 3.6.5 Step 5 – Declare or Abandon Scheme: A Council report is prepared based on the outcome of the consideration of any submissions from benefitting property owners with a recommendation for Council to either give notice of Declaration or abandon the scheme.

If Council resolves to declare a Special Rate or Charge, **a notice advising of this decision is sent to all benefitting property owners**. The notice includes the information contained in the Declaration, incorporating details of the charge for each property and the date on which the contribution is payable, in accordance with section 163 of the *Local Government Act 1989* (?2020?) and shall contain prescribed information detailed in Regulation 96 of the *Local Government Reporting and Accounting Regulations 1992*. The notice will also advise that appeals may be lodged with VCAT by any interested party.

If Council resolves to abandon the scheme, the same scheme should not be considered by Council for a minimum of five [5] years from the date of the Council resolution.

- 3.6.6 Step 6 – Appeal to VCAT: Under section 185 of the *Local Government Act 1989*, benefitting property owners may lodge an application for review with the Victorian Civil and Administrative Tribunal (VCAT) within one month of issue of the levy notice. An appeal is listed, heard, and determined by the Tribunal. Decisions made by VCAT are binding on all parties.
- 3.6.7 Step 7 – Procurement and Construction: Should no appeals be received by VCAT, or VCAT confirms the scheme, it will be cleared to progress to procurement and subsequent construction.
- Should VCAT rule to abandon a scheme, the same scheme shall not be considered by Council for a minimum five [5] years from the date of the VCAT decision.
- 3.7 Some schemes – such as roads and drainage schemes – are more complex in nature and are usually more expensive. When this is the case, a community meeting may be included as part of the Scheme initiation.
- 3.8 Management of a Special Rates and Charges Scheme process will be in an open and transparent manner.
- 3.9 Any Council costs to the Special Rates or Charges Scheme shall be included in Council's Capital Works Program. Council's costs may be attributed to:
- 3.9.1 properties receiving a benefit but Council resolving for them not to be included in the scheme
  - 3.9.2 land that is not rateable and Crown land
  - 3.9.3 community benefit costs where the broader community benefits
  - 3.9.4 Council contributions
- 3.10 Apportioned cost to property owners may be paid as a lump sum within one month of commencement of the work, or by quarterly instalments over a maximum 10 year period with interest. The interest charged will be Council's borrowing rate at the time plus an additional 1% for administration costs.

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#### 4. PROCEDURES

- 4.1 The following procedures support this policy:
- 4.1.1 Special Rates and Charges Procedure (to be developed)

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#### 5. SUPPORTING INFORMATION

- 5.1 Special Rates and Charges Ministerial Guidelines (2004) .

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#### 6. RESPONSIBILITIES

##### **Compliance, monitoring and review**

- 6.1 The policy owner is responsible for ensuring that the policy:
- 6.1.1 aligns with relevant legislation, government policy and Council's requirements / strategies / values;

6.1.2 is implemented and monitored (*ie*, the policy is followed, reflects the changing policy environment, and emerging issues are identified); and

6.1.3 is reviewed to evaluate its continuing effectiveness (*eg*, achieving its purpose, remains relevant / current).

**Reporting**

6.2 The policy owner is responsible for reporting, where required by the policy.

**Records Management**

6.3 Council must maintain all records relevant to administering this policy in accordance with the *Public Records Act 1973*.

**7. DEFINITIONS OF TERMS OR ABBREVIATIONS USED**

7.1

Term	Definition
<i>Council</i>	<i>Golden Plains Shire Council</i>
<i>Special Rates and Charges Scheme</i>	<i>Funding model Councils can use to recover the costs, or part costs, from property owners who derive a direct benefit from Council works or services.  Section 163 of the Local Government Act 1989 (Act) covers legal requirements of Special Rates and Charges.</i>
<i>Direct Benefit</i>	<i>Benefit 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.</i>
<i>Community Benefit</i>	<i>Community Benefit exists where the works or services will provide tangible and direct benefits to people in the broader community. These will derive from the provision of facilities or services that are generally available to people, other than owners or occupiers of properties with special benefits, through savings from operational or maintenance costs, or through reduced risk.  Where this is clear, tangible and direct, the Council should attribute a community benefit.</i>

**8. RELATED LEGISLATION AND DOCUMENTS**

8.1 *Local Government Act 1989*

8.2 Special Rates and Charges Ministerial Guidelines – September 2004

**9. APPENDIX**

9.1 Special Rates and Charges Ministerial Guidelines – September 2004 (extracted from Victoria Government Gazette, 23 September 2004. Items not related to guidelines struck through).

**10. HUMAN RIGHTS STATEMENT OF COMPATIBILITY**

- 10.1 As a public authority, Council has a duty to act compatibly with human rights and to give human rights proper consideration in decision making. See the guidelines for policy makers available at: <https://www.justice.vic.gov.au/justice-system/laws-and-regulation/human-rights-legislation/charter-of-human-rights-guidelines-for.>
- 10.2 It is considered that this policy does not impact negatively on any rights identified in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

**11. POLICY OWNER**

- 11.1 The policy owner is the individual who is given the responsibility to review, edit and maintain this policy and associated procedure. The policy owner is also the point of contact for any questions regarding this policy.

**12. FEEDBACK**

- 12.1 You may provide feedback about this document by emailing [enquiries@qplains.vic.gov.au](mailto:enquiries@qplains.vic.gov.au)

**13. DOCUMENT INFORMATION**

DOCUMENT TYPE:	Council Policy document
DOCUMENT STATUS:	[For example: Approved/Not Approved]
DOCUMENT OWNER POSITION:	Director Infrastructure and Environment
APPROVED BY:	Council
DATE ADOPTED:	[Insert Date/Month/Year]
VERSION NUMBER:	[Insert version number]
REVIEW DATE:	[Insert review date – this should coincide with the policy review date. Best practice would be no longer than five years between reviews]
DATE RESCINDED:	[Include if relevant]
EVIDENCE OF APPROVAL:	<p>_____</p> <p>Signed by Chief Executive Officer</p>
FILE LOCATION:	<p>[Include a file location (AltusECM Ref) so that it may be accessed in future and amended - Word and PDF – insert file path]</p> <p>INT[XX/XXXX]</p>



NOTES:

Policy documents are amended from time to time; therefore you should not rely on a printed copy being the current version. Please consult Council's Policy page on the Golden Plains Shire Council website to ensure that the version you are using is up to date.

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[for Council policy]

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