



# Yarra Ranges Council Special Rate and Charge Scheme Policy 2025

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Version:	1.0
Approved by Council/ELT:	May 2025
Review Date:	May 2027
Policy Owner:	Manager Design and Delivery & Manager Infrastructure Services (Operations)
Applicable to:	Built Environment and Infrastructure; Directorate & Planning and Sustainable Futures Directorate staff

## Acknowledgment of Country

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***Yarra Ranges Council (Council) acknowledges the Wurundjeri and other Kulin Nations as the Traditional Owners and Custodians of these lands and waterways. We pay our respects to all Elders, past, present, and emerging, who have been, and always will be, integral to the story of our region. We proudly share custodianship to care for Country together.***

## Yarra Ranges Community Vision 2036

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The Yarra Ranges Community Vision 2036 has been developed to describe the communities and Council's aspirations for the future of the municipality. It's based on input from over 1,000 community members and reflects the local communities aspirations for the municipality.

***Whether you live here or visit, you will see how much we care for Country, how inclusive and connected our communities are, and how balanced growth makes this the best place in the world.***

### What We Want to Achieve

Council has five goals to describe what we are working towards and how we want Yarra Ranges to be in the future. These goals have been developed in response to our communities priorities and the big issues facing Yarra Ranges. All policies and activities completed by the organisation contribute to one or more of these goals.



#### **Connected and Healthy Communities**

Communities are safe, resilient, healthy, inclusive and socially well connected. Quality services are accessible to everyone.



#### **Quality Infrastructure and Liveable Places**

Quality facilities and infrastructure meets current and future needs. Places are well planned and are hubs of activity that foster wellbeing, creativity and innovation.



#### **Protected & Enhanced Natural Environment**

A healthier environment for future generations.



#### **Vibrant Economy, Agriculture and Tourism**

Our tourism, agriculture, health, manufacturing and other industries are leading and dynamic. Strong investment and attraction underpins sustainable economic growth and job creation.



#### **High Performing Organisation**

An innovative, responsive organisation that listens and delivers quality, value for money services to our community.

## 1. Purpose

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This Policy relates to "Special Rate and Charge Schemes" for infrastructure improvements and economic development. Such Schemes allow for the recovery of part or all of the cost of works and actions undertaken by or at Council direction to provide the Special Benefit.

This policy is not legally binding but should be followed by Council officers and Council itself in considering and implementing Schemes unless there is good and documented cause to do otherwise.

## 2. Scope

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This policy provides direction for the process, implementation and delivery of works, services and special purpose Schemes under the *Local Government Act 1989* and related regulatory framework.

Such Schemes providing funding to the Council through the recovery of costs, or part of the costs, from property owners where the works, services or special purpose Scheme will provide a "Special Benefit" to those properties.

Schemes may generally include, but are not limited to:

- infrastructure works, including but not limited to:
  - new sealed roads;
  - sealing unsealed roads;
  - traffic management;
  - kerb and channel;
  - drainage;
  - footpaths;
  - lighting; and
  - township improvements
- marketing, promotion and economic development.

This Policy Outlines the decision-making process for Officers and Council both in determining Special Benefit and when determined, implementing a Scheme to provide that benefit to those properties; and provides guidance in determining when the Council will contribute to the cost of such Schemes both when there is a broader community benefit and when it is fair and appropriate to do so.

### 3. Definitions

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<b>Act</b>	means the <i>Local Government Act 1989</i>
<b>Council</b>	means Yarra Ranges Shire Council and /or Yarra Range Council
<b>Council Guidelines</b>	means the Guidelines created and adopted at a Department level to guide the investigation and implementation of potential Schemes
<b>Development Unit</b>	is a measure used to apportion costs among properties in a Special Rate and Charge Scheme for infrastructure improvements. Properties are typically assigned one development unit, but this can vary based on factors like property use, potential for development, and abuttal to the works.
<b>Landowner</b>	is someone who owns property that may be included in a Special Rate and Charge Scheme. These schemes involve contributions from property owners for infrastructure improvements that provide a special benefit to their properties. The general term Landowner is the "person liable to pay" as per the Act and refers to individuals or entities who are required to pay special rates or special charges.
<b>Ministerial Guideline</b>	means the <i>Special Rates and Charges Ministerial Guideline 2004</i>
<b>Policy</b>	means this <i>to Special Rate and Charge Schemes ” for infrastructure improvements and economic development.</i>
<b>Scheme</b>	means a Special Rate or Special Charge scheme carried out under the provisions of the <i>Local Government Act 1989</i>
<b>Special Benefit</b>	means a benefit received by the property (and through that the benefitting property owners) included in the Scheme. The Act and Ministerial Guidelines define "special benefit" for properties liable under a proposed Scheme.
<b>VCAT</b>	means the Victorian Civil and Administrative Tribunal

**Table 1. Definitions**

### 4. Policy Statement

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Yarra Ranges Council is committed to:

- Work in partnership with property owners and businesses to improve Community infrastructure through the implementation of Schemes.
- Ensure a fair, reasonable and consistent approach is applied to properties and businesses involved in Schemes.
- Seeking best (or better) value
- Maintain fair, reasonable and consistent approaches in engaging individual and groups of property owners and other stakeholders.

### 5. Special Charges and Special Rates: Policy and Implementation

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The Act does not separately define a “special charge” versus a “special rate”, noting:

- for infrastructure projects the term special charge will generally be used, where the liability of properties will be based on the characteristics of and benefit to, those properties; and
- the term special rate will be appropriate for projects such as township marketing or economic development promotion proposals.

This policy assists the implementation of schemes in accordance with the Act, decision of the VCAT and the courts, and other policy and direction of government. It specifies Council direction and preference but does not create fixed rules or legal requirements.

Council has established procedural guidelines to assist in the implementation of Special Rate and Charge Schemes. These guidelines provide practical explanations and direction for implementing schemes. Different guidelines may be adopted for different types of schemes, such as the more common Infrastructure Schemes.

The following guidelines establish the considerations in implementation and adherence to the policy.

## **5.1 Scheme Investigation and Implementation Procedures**

### **Investigation**

A Scheme investigation may be initiated by Council officers, Landowner requests to Council, or requests from other public bodies. Council officers will develop, maintain and update a list of projects, prioritised based on need and risk or other factors. For example, inclusion in Council's Capital Expenditure Program.

Requests by property owners for Schemes where the Scheme involves a larger number of properties may see Council request, from property owners, a petition, to test the level of Landowner support. Schemes, with a small number of owners, which are effectively voluntary, may see Council seek written consent from every participating landowner. Investigation of potential Schemes will occur with a focus on community engagement, evidence, risk, needs and public support basis.

### **Level of support**

The level of Landowner support, together with demonstratable benefits of a Scheme will impact decisions to proceed with Schemes. An effective consultation process must be undertaken to ensure the appropriate level of support.

### Legislated Support Levels

The Act (at section 163B) requires notice to property owners affected and if more than 50% of all properties that are affected object the Scheme cannot proceed.

Note – this 50% requirement does not apply:

- If Council pays for more than one third (34% or greater) the Scheme cost;
- If Council declares it is a drainage Scheme required for public health reasons; or
- The Scheme is exempt by regulation (no such regulation yet exists).

### Council Support Options

The Council has added (as policy) additional considerations in relation to landowner support. These Council measures are not mandatory, rather they assist consideration.

For Road and Footpath Improvement Schemes there is a preference for a support level of greater than 50% of affected landowners, in order for the project to be referred for consideration of inclusion within Council's Capital Works Expenditure Program.

## 5.2 Special benefit

The Act and Ministerial Guidelines refer to “special benefit” that may apply to properties liable for a proposed Scheme. Each project should be assessed on its merits to identify special benefit to landowners involved in accordance with the Ministerial Guidelines.

The Ministerial Guidelines state:

*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 benefit to other properties.*

*...is not necessary for the benefit to be actually used by the particular owners or occupiers at a particular time in order for a special benefit to be attributed...*

A number of principles apply to the concept of what constitutes a special benefit which are drawn out of past legal decisions. Those include:

- The word "special" does not mean that the benefit is the exceptional or extraordinary, that the relevant property actually obtains a benefit;
- That the benefit to be considered is the benefit to the property, not to the present occupiers or owners of the land;
- The present expressed intentions of the owners of the land not to take advantage of any benefit in question does not deny that the benefit exists;
- That the Council should consider the potential uses of the relevant land not just its current use when deciding whether there is a special benefit; and
- The decision maker should consider the potential uses when deciding the relevant contribution or proportion to be levied against the land
- Each project should be assessed on its merit to identify the special benefit to landowners involved having regard to the Act, Ministerial Guidelines, this Policy and any Guidelines adopted within Council.

## 5.3 Apportionment of Scheme Costs

Council has an obligation under the Act and the Ministerial Guidelines to establish a fair and reasonable method of apportionment of costs associated with a Scheme.

Council should develop in its Guidelines additional tools to explain and assess the appropriate levels of Landowner and Council contribution.

Objections to Schemes together with rights of review in VCAT exist. Generally, it is not sufficient for the Landowner to demonstrate an alternate method of apportionment could have been used but rather, to demonstrate that the method used is wrong or unreasonable.

### Non-rateable and Crown land

Section 221(3) of the Act identifies how non-rateable and crown land should be treated. This section allows non-rateable land to be included in a special rate or charge, however, gives exemption to Crown land.

The Council can still choose not to include non-rateable land. In instances where Crown land is involved in a proposed Scheme, and when property owners may be disadvantaged it is open to the Council to consider a contribution itself towards the Scheme. This is an option, not a legal requirement.

### Council contribution for benefit received by Council

A Council contribution may be appropriate under the following circumstances:

- For a Council owned property included in a Scheme - extent of contribution based upon the existing or potential equivalent benefit received, relative to other properties;
- For modification or reinstatement of existing infrastructure affected by the proposed Scheme project;
- On behalf of a non-contributing Government Authority which has a property within the boundary of the Scheme, (for example crown land); and
- For works included in the project that are for principally for the benefit of the broader community outside the area of the Scheme.

#### **5.4 Ministerial Guidelines**

The Ministerial Guidelines provide community benefit and assessment and should be consulted by officers of Council in assessing such benefit to which Council may contribute.

#### **5.5 Council incentive contribution**

Council may contribute as an incentive to landowners and to recognise the benefit to Council of the Scheme.

#### **5.6 Council contribution for broader community benefit**

A Council contribution having regard to the broader community benefit will often be warranted.

Council may through its Guidelines (including through suggested ratios) set out guidance for when and how much contribution is appropriate Council contribution defined in this section recognises the benefit to Council and the broader community of the project.

#### **5.7 Landowner contributions**

Apportionment methodology may have a number of variations; however, it is preferred to maintain a simplified approach in determining the contributions for each property. All such apportionment applied by Council must accord with the Act and any Ministerial Guidelines.

Council Guidelines will be prepared to assist in the apportionment assessment and method for Schemes.

In apportioning costs amongst properties the following will generally be considered:

- Yarra Ranges Planning Scheme zones and overlays, including tenement provisions if these apply;
- Existing use or development potential of a property.
- Road abutments to works; and
- Area of a property (generally drainage Schemes).

#### **5.8 Landowner contributions – Additional options/elements**

Council may apply various more detailed elements or incentives as part of different Schemes. Some of these may be detailed in the Council Guidelines and may include:

- Rebates for lot consolidation; and/or
- Different rates for mixed land uses.

Such detail or variation must not result in the contribution of other property owners increasing unfairly.

#### **5.9 Voluntary / Privately Funded Upgrades**

On occasions, the community may request a scheme, often for road improvements, however, the Council might find for a number of reasons, it is not in a position to contribute to the works and/or fully fund projects upfront. In such cases, the road improvement scheme may proceed on a voluntary basis. This would require that all affected landowners support the project, with the knowledge that the total cost of the works will be calculated and divided among all contributing property owners. Generally, Council will not contribute financially.

The Voluntary/ Privately funded road improvements may be by direct agreement (Including as 173 Agreement under the Planning and Environment Act 1987) and may not be a Scheme at all. The agreement may also be paired with a Special Charge Scheme.

Council may also require as part of the Scheme, or a separate “maintenance” Scheme, that voluntary contributors are levied in relation to ongoing maintenance.

Council Guidelines may provide direction for the evaluation and implementation of arrangements.

### **5.10 Repayment Period and Financing Costs**

As part of the declaration of the Scheme, Council is required to determine the period that the Scheme remains in force. The repayment period of the Scheme is generally adopted as 10 years. In addition, the financing cost is determined by Council for those landowners who wish to pay the contribution over the period of the Scheme.

### **5.11 Financial Hardship**

Property owners experiencing financial hardship may apply for assistance under the **Rate Recovery and Hardship Policy**. In accordance with sections 170 and 171A of the Local Government Act, special circumstances, such as the levying of a Special Charge Scheme, may qualify for assistance under section 3.5.1 (Special Circumstances) of the Hardship Policy.

### **5.12 Final cost of works**

The Act makes provision for costs of the works to be reapportioned using the actual construction costs, including allowance for project management, design, administration and supervision. Surplus funds must be returned to the owner of the contributing property at the time of any refund. Higher costs equal to or greater than 10% may not be recovered from the affected properties, unless a further notice, objection and potential VCAT review opportunity is provided.

### **5.12 Ceiling amount for a special rate or charge**

To make the participation in a Scheme more affordable and desirable, a ceiling amount or cap in contribution may be applied to the landowners’ apportioned costs for specified Schemes.

This ceiling applies to individual residential properties. The ceiling does not apply to properties used for commercial or industrial purposes or for properties utilised for home-based industry. Council will contribute for individual Landowner costs above the ceiling (excluding financing costs).

The ceiling amount may be reassessed by Council each year during the process of setting Council’s the annual budget and may change without the amendment of this Policy.

Council Guidelines may include when and how the ceiling will apply and how it will be applied to offset existing Council or Landowner contributions, noting there is no legal obligation to apply the cap in every relevant Scheme, this is still at Councils discretion.

Generally, the maximum ceiling amount for projects undertaken is \$20,000 per Development Unit, reviewed annually as part of Council’s budget process. In cases where this general maximum of \$20,000 might be exceeded, Council may consider the overall contribution to the Scheme, ensuring that its total contribution does not exceed 40% of the combined Landowner and Council contributions to the Scheme.



## 6. Related Documents

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- Unsealed Roads Management Framework;
- Footpath Prioritisation Framework;
- Rate Recovery and Hardship Policy;
- Road Management Plan;
- Stormwater Management Plan

## 7. Monitoring and Evaluation

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The monitoring and evaluation of this policy will be overseen by the Manager Infrastructure Services (Operations) and Manager Design & Delivery. The Built Environment and Infrastructure Services Department will conduct reviews to assess the effectiveness of the policy and the process. Reporting of these findings will go to the leadership team to review and refine the policy and related guideline if required.

## 8.0 Policy Review

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This policy will be reviewed every 2 years. From time-to-time circumstances may require minor administrative amendments to be made to this document. Where such an amendment does not materially alter the intent of the document, this may be made administratively with approval of the Director without the need to be approved by ELT or Council.

The Council has introduced measures to support landowners, which are optional and meant to help with decision-making. It is recommended that this policy review aligns with related strategies and capital works programs. Additionally, the policy should be reviewed within 12 months after a general council election to ensure it stays relevant and effective.

## 9.0 Document Control

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Version #	Approval Date	Approved By	ECM reference
1.0			