

# **SPECIAL RATE AND CHARGE SCHEMES - AN OVERVIEW**

The Local Government Act provides Council with the power to levy a special rate or charge to fund the doing of any act or the exercising of any function which Council is empowered to do under the Local Government Act.

Council's powers, roles and responsibilities are very broad in this regard.

Briefly, Council has the power to levy a special rate or charge on any person or group of persons who will derive a 'special benefit'. This benefit must be determined to be over and above that enjoyed by the rest of the Municipality as the result of the application of a special rate and/or charge scheme to a particular area/project. The establishment of a 'special benefit' is the critically important test in implementing a special rate and charge.

In most cases, Council will issue notices to collect the monies on behalf of a local body - eg. Chamber of Commerce, Incorporated Traders Association etc. - and then pay money to that body to be expended for a specified agreed purpose.

The Local Government Act (s163) sets out a specific process to be followed. The process is:

## **1. INITIATE**

Any person or group may request the initiation of a special rate or charge scheme. This request should be in written form, and is usually expressed in a petition outlining support for the scheme. A certain percentage level of support has not been adopted as a policy of Council, rather Council will consider both the demonstrated support for the proposed scheme (ie petition) and the level of active objection to the scheme. Prior to a Council report being drafted, a public meeting/information session may be called, but this is not a statutory requirement.

## **2. REPORT TO COUNCIL - COUNCIL'S INTENTION TO DECLARE**

If Council determines to proceed to the next step, a report is put to Council by Council Officers, proposing the intention to declare special rate/charge or combination and setting out the details of the proposal (amount of money to be raised, period of rate/charge, what the money will be spent on, area to which scheme applies, basis of contribution, administrative arrangements etc.)

Council considers the proposal and may pass a resolution to provide their intention to declare a special rate/charge and outline the details and process to be undertaken.

### **3. NOTIFICATION**

A notice declaring the intention to commence a special rate/charge is published in local papers and submissions from affected parties are called for. All affected people (property owners and occupiers) are also advised in writing outlining:

- (i) the properties or areas for which the special rate or special charge is declared;
- (ii) the land in relation to which the special rate or special charge is declared;
- (iii) the manner in which the special rate or charge will be assessed and levied; and
- (iv) details of the period for which the special rate or special charge remain in force.
- (v) the date on which it is proposed to make the declaration
- (vi) that copies of the proposed declaration are available for inspection at the Council office for at least 14 days after the publication of the notice and;
- (vii) the means by which submissions can be made.

### **4. CONSIDERATION OF SUBMISSIONS**

Council, or a Special Committee of Council, then considers all submissions received and invite all submitters to appear before Council/Committee.

The grounds on which submissions may be lodged in relation to a special rate or special charge are;

- (i) a Council's declaration of the special rate/charge;
- (ii) the application of the special rate/charge to certain land;
- (iii) the amount of the special rate/charge;
- (iv) the basis of calculation of the special rate/charge; or
- (v) the special benefit which Council considers will result from the special rate/charge.

### **5. DECIDE WHETHER TO PROCEED**

After considering all submissions Council decides whether to proceed, quash or vary the special rate/charge.

## **6. LEVYING THE RATE/CHARGE**

If the decision is made to proceed, Council sends a notice in the prescribed form to all those liable to pay the special rate/charge.

All persons to whom the notice has been sent have one month from the date of the notice to appeal to the Administrative Appeals Tribunal (AAT) for a review of the Council's decision.

## **7. APPEAL**

The AAT must hear any appeals in accordance with the Act and may;

- (i) vary the special rate/charge;
- (ii) quash the special rate/charge; or
- (iii) dismiss the appeal and uphold the special rate/charge.

## **8. DECIDE WHETHER TO PROCEED**

Council then decides whether to proceed, abandon or modify the rate/charge.

If Council does not proceed, affected persons must be notified and all monies collected should be refunded. If Council decides to modify the rate/charge, all persons liable to pay the rate/charge should be notified. If Council decides to proceed, it continues to collect the monies as prescribed in the notice.

## **9. RECORDS**

An agreement between the relevant party and Council is then signed and sealed.