

INTENT TO LEVY A SPECIAL CHARGE ARTHURS ROAD, CHUM CREEK - ROAD IMPROVEMENTS

Report Author: Project & Schemes Officer
Responsible Officer: Director Built Environment & Infrastructure
Ward(s) affected: Ryrie;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

In response to a petition from residents in July 2020, landowners along Arthurs Road, Chum Creek were surveyed to determine the level of support for a landowner funded Special Charge Scheme to construct the road.

As a result of the significant level of support received from these landowners, the road construction project was referred for inclusion in Council's forward 10-year Capital Expenditure program (CEP) in January 2022.

Detailed design and planning for the project have been completed, including the establishment of drainage easements and the project is currently listed in the 2025/26 CEP

This project was generated through a petition from landowners (separate to the Roads for Community Initiative Program). It was investigated and gained landowner support when the RCI program was operating between September 2019 and January 2023.

These projects were not part of the RCI program, the landowner contribution was un-capped, and the \$7,000 landowner cap (related to RCI) did not apply. Council generally ended up contributing 20 to 40% for these small rural type projects due to increased costs of construction.

This report recommends affected landowners be notified of Council's Intent to Levy a Special Charge Scheme for the construction of Arthurs Road, Chum Creek.

RECOMMENDATION

That

- 1. The affected landowners be advised of Council's intent to declare a special charge ("the special charge") at its meeting scheduled for 9 December 2025, for the purpose of defraying expenses associated with proposed improvement works in Arthurs Road, Chum Creek.**
- 2. In accordance with Section 163 (3) of the Local Government Act 1989 Council specifies that the special charge**
 - (a) Is proposed to be declared for the land in the "designated area" shown on the attached plan.**
 - (b) Will be payable in respect of all rateable land within the designated area.**
 - (c) Will be assessed and levied as set out in this resolution.**
 - (d) Will remain in force for the period commencing on 1 July 2026 and concluding on 30 June 2036.**
 - (e) Will expire if the special charge is not levied to each person liable to pay it within 12 months after the day on which the declaration to which the rate or charge relates is made.**
- 3. In accordance with Section 221 Council may consider the inclusion of non rateable land that is not Crown land in a scheme.**
- 4. The assessment of the special charge is calculated on the following basis:**
 - (a) \$14,200 per development unit.**
 - (b) Plus financing cost of 4.24% per annum.**
 - (c) 100% on a development unit basis as follows:**
 - (i) Special benefit where a dwelling or building is permitted.**
 - (ii) The degree of special benefit having regard to the use or future use of the land.**
- 5. The amount assessed, based on the assessment factors, is set out in the attached schedule of costs per property for the scheme.**
- 6. Landowners may opt to repay the special charge in a lump sum where they will not incur the interest component of the charge. The payment date for this option is 15 February 2027.**
- 7. Subject to any variation of the scheme, the amount to be levied under exclusive of any additional interest payable under Section 172 of the Local Government Act 1989 will be**
 - (a) In total \$311,852 ("the amount to be paid"); comprising of \$257,304 for the cost of works and \$54,548 for financing cost.**
 - (b) On each date specified under Section 167 of the Local Government**

Act 1989 as being the date on which the whole of rates and charges (other than special rates and charges) is due ("the due date") the amount represented by the formula: X/Y where X represents the amount to be paid and Y represents the number of due dates during the period which the scheme will remain in force.

- 8. The Chief Executive Officer be authorised to give public notice of the intent to declare the special charge in accordance with Section 163 (1A) and 223 of the Local Government Act 1989 in The Star Mail newspapers and on Council's Internet Website.***
- 9. If required a consultation meeting with appropriate Council Officers, be arranged to discuss any submissions received relating to the Special Charge.***
- 10. If submissions are made***
 - (a) Those submissions be considered, and any person (or their representative as specified in their submission) who has requested to be heard in support of his or her submission be heard, by a meeting of Council scheduled for 9 December 2025, or should this meeting not proceed then the next available meeting.***
 - (b) Those persons making submissions be advised that details of their submission (excluding submitter's names and addresses) will be included in a Report to Council at the meeting held when their submissions are considered.***
- 11. If no submissions are made, the matter be reported to Council at the meeting scheduled for 9 December 2025 or should this meeting not proceed then the next available meeting.***
- 12. The Chief Executive Officer be authorised and directed to seek payment of and recover the special charge with any interest thereof.***

RELATED COUNCIL DECISIONS

At its meeting on 24 September 2019, Council considered a report that included an addendum to Council's Special Rate and Charge Scheme Policy for Infrastructure improvement. The following recommendation was adopted:

- Clause 4.6 of Council's Special Rate and Charge Scheme Policy for Infrastructure Improvements be amended by removing the landowner ceiling for projects not listed as a priority to be funded by the Federal Government funding initiative.

At its meeting 20 May 2025, Council considered a report that endorsed Council's Special Rate and Charge Scheme Policy 2025.

- Clause 5.5 Council incentive contribution - Council may contribute as an incentive to landowners and to recognise the benefit to Council of the Scheme.

- Clause 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.

DISCUSSION

Purpose and Background

A landowner petition was tabled at Council for the construction of Arthurs Road, Chum Creek in July 2020.

Landowner support was sought and obtained for construction of the road in November 2021. The majority of landowners supported the project.

Following the initial landowner consultation in 2021, the project timeline was extended to accommodate the detailed design process and the establishment of a private drainage easement. This easement was necessary to address long-standing drainage issues and ensure the long-term functionality of the road infrastructure.

During this period, construction costs across the sector increased significantly. As a result, the estimated cost of the project has increased, from the original estimate used during the landowner questionnaire phase. This increase reflects updated market rates for materials and labour.

It is proposed that the landowner contribution remain fixed at \$14,200, consistent with the original estimate provided during consultation. This will require an additional 18% Council contribution to the scheme equating to \$77,339.

This additional funding will be sourced through Council's Road Sealing Program allocation and supported by the Federal Government's Roads to Recovery program.

Design is complete, and the project is ready to proceed to the statutory phase of the Special Charge Scheme process

Recommended option and justification

That Council advise affected landowners of its intent to declare a special charge for the Arthur Road, Chum Creek Improvement Works Special Charge Scheme, in accordance with provisions in the Local Government Act 1989.

It is recommended that Council, at its meeting 9 December 2025 and after considering any submissions received, determine whether to adopt, amend or abandon the scheme. If Council adopts or amends the scheme, the special charge may then be declared.

The special charge would then be levied by sending a notice under Section 163 (4) of the Local Government 1989 to the persons liable to pay the charge.

Description of Improvement Works

Arthurs Road, Chum Creek is an unsealed road connecting abutting properties to Healesville-Kinglake Road.

The proposed works:

- Approximately 500 metres of 3.5 metres wide asphalt pavement over existing and new layers of compacted crushed rock base, generally following the existing road alignment.
- Crushed rock shoulders and existing table drains reshaped. Additional cement or concrete lined treatment will be included to manage stormwater in sections as required.
- Longitudinal drainage within new drainage easement (Council Cost item).
- Reinstatement of vehicle crossovers.

These works are considered to be of an appropriate standard to service Arthurs Road, Chum Creek and are not in excess of the standard which would normally be adopted by Council for the improvement of a local road.

The purpose of the special charge is to improve safety, amenity and accessibility for landowners involved.

A search of Council's records indicates that Arthurs Road, Chum Creek has not previously been constructed to the satisfaction of Council under Section 163 of the Local Government Act 1989 or under Division 10 of Part XIX or Part XIII of the Local Government Act 1958.

Council is therefore able to proceed with its intent to declare a special charge pursuant to Section 163 of the Local Government Act 1989.

Designated Area

A special charge is proposed to be declared in respect of the properties within the designated area, being those properties that abut or gain primary access via the unsealed section of Arthurs Road, Chum Creek as shown attached.

These properties are considered to be naturally coherent in accordance with the Ministerial Guideline on Special Rates and Special Charges.

Special Charge Scheme

A special charge scheme has been prepared for Arthurs Road, Chum Creek to allow Council to advise of its intent to declare a special charge.

Attached is a calculation of Special Benefit and Maximum Total Levy, a plan showing the designated area, an estimate of cost of works and a schedule of costs per property for the road improvement works

FINANCIAL ANALYSIS

Based on preliminary estimates for road improvements to Arthurs Road, Chum Creek \$423,000 has been allocated in Council's 2025/26 Capital Expenditure Program Budget.

The estimated cost of works has been determined as \$503,903.

Council's contribution to the project is estimated to be \$246,600.

The landowner contribution to the project is estimated to be \$257,304.

Council's additional contributions are proposed to be sourced through Council's Road Sealing Program allocation and supported by the Federal Government's Roads to Recovery program

This estimate has been prepared based upon previous works carried out throughout the municipality and includes a 10% contingency amount.

Scheme Details

Estimated Project Cost	\$503,903
<u>Less Council cost items (drainage)</u>	\$85,600
Estimated Scheme Cost	\$418,303
<u>Less Council's Contribution 20%</u>	\$83,661
<u>Less Council Additional contribution 18%*</u>	\$77,339
Total Estimate Council Scheme Cost- 38%	\$161,000
Balance of estimated cost to be recovered from landowners (excluding financing costs) - 62%	\$257,304

**Any cost savings in delivering the project will firstly offset the additional Council contribution.*

Financing Costs

Funding of the landowner component of the project is to be provided through loans. The financing cost rate is determined from Council's latest borrowings. The financing cost rate applicable is 4.24% based on latest borrowings rates for a ten-year period.

Financing costs are to be recovered from landowners who choose not to pay in full by 15 February 2027. Total landowners' estimated share for the works is \$257,304 plus an amount of \$54,548 for financing costs. These financing costs have been separately accounted for in the debt servicing budget.

Period for Which Special Charge Remains in Force

The special charge remains in force for the period commencing 1 July 2026 and concluding on 30 June 2036, or until paid in full, with any interest thereon.

Date of Payment

A notice pursuant to Section 167 (3) of the Local Government Act 1989 shall be issued with payment due on 15 February 2027. If a person elects to pay general rates and charges by instalments or any other method available, the special charge will be paid in the same manner.

It is recommended the Chief Executive Officer be authorised and directed to seek payment of and recover the special charge with any interest thereon.

Incentives for Prompt Payments

No incentives will be offered for prompt payment prior to the prescribed date of payment.

Variation

The details and particulars of this special charge shall remain in force unless varied by Council in accordance with the Local Government Act 1989.

APPLICABLE PLANS AND POLICIES

The construction of local roads as a Special Charge Scheme meets the *Council Plan 2021-2025* strategic objective of Quality Infrastructure and Liveable Places. Local road construction also has benefits related to the strategic objective of a Vibrant Economy, Agriculture and Tourism.

Council's Special Rate and Charge Policy outlines the approach for administering Special Charge Schemes.

RELEVANT LAW

Special Charge Schemes for Infrastructure Improvements are implemented under the Special Charge provisions of the Local Government Act 1989.

Council when considering a Special Charge Scheme is required to advertise the proposal and invite submissions from the public as prescribed in 223 of the Local Government Act 1989.

Implementation of the works will be carried out under Sections 8 and 10 of the Local Government Act 2020 which identifies the role and powers of Councils

SUSTAINABILITY IMPLICATIONS

Economic Implications

Refer to Social Impacts (below) for commentary on affected landowners and financial hardship.

The *Local Government Act 1989* recognises that a property receives a special benefit from construction of an abutting road. The economic benefit to an individual property while difficult to quantify, might have a positive gain due to the improved amenity.

Social Implications

Special Charge Schemes for road construction require sizeable contributions from abutting landowners. These contributions can lead to social and economic impacts for affected landowners. Council's *Special Rate and Charge Policy* notes that those landowners with a demonstrated financial hardship may apply for assistance in accordance with Council's *Rate Recovery and Financial Hardship Policy*.

Environmental Implications

The proposed works will not require vegetation removal. All works will be completed in compliance with Council's Code of Environmental Practice for Works on Council Managed Land.

A Cultural Heritage Management Plan is not required for the works.

The works will enhance environmental amenity, through the reduction in dust.

COMMUNITY ENGAGEMENT

In November 2021 landowners along Arthurs Road, Chum Creek were surveyed to determine the level of support for a landowner funded Special Charge Scheme to construct the road. Results were as follows.

- 18 (90%) of landowners responded to the survey.

Of those landowners who responded to the survey:

- 14 (78%) supported the proposed Special Charge Scheme
- 4 (22%) objected to the proposed Special Charge Scheme.

Landowners were advised that sufficient landowner support for the proposed Special Charge Scheme had been identified, and the project was referred for inclusion in Council's forward 10-year Capital Expenditure Program in January 2022.

A letter was mailed to landowners inviting them to view an on-line briefing presentation detailing the standard of works and the statutory processes required to implement a Special Charge Scheme. The briefing presentation is available for viewing on Council's website.

Those landowners unable to access the internet were advised that a copy of the presentation could be mailed to them on request.

FURTHER CONSULTATION

Public Notice

Council is required to publish a public notice, a copy of which must be sent to each person who will be liable to pay the special charge, within three working days of the day on which the public notice is published.

The public notice must state which persons have a right to make a submission to the proposed declaration, and how those persons may make a submission. Submissions in writing must be lodged with the Council within 28 days of the day on which the public notice is published.

In addition, the public notice must contain an outline of the proposed declaration, 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 Council's Community Links for at least 28 days after the publication of the notice.

It is recommended that Council authorise the publication of this statutory notice in The Star Mail local newspapers and on Council's internet website.

Submissions

Council or a Delegated Committee of Council is required to consider any written submissions. These submissions should be received by Council by a date specified in the notice which is not less than 28 days after the publication of the above notice.

Persons making a written submission to Council are entitled to request to appear before Council or the Delegated Committee of Council to be heard in support of their written submission or be represented by a person specified in their submission.

It is recommended that a consultation meeting with appropriate Council Officers, be arranged to discuss any submissions received relating to the Special Charge. Following this consultation meeting the normal process for submitters presenting to Council will apply.

It is recommended that persons making a written submission to Council be advised that:

- Submissions will be considered, and any person (or their representative as specified in their submission) who has requested to be heard in support of their submission be heard, by a meeting of Council scheduled for 9 December 2025, or should this meeting not proceed then the next available meeting; and
- Details of their submission (excluding submitter's names and addresses) will be included in a Report to Council at the meeting held when their submissions are considered.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Council's, Governments or statutory bodies was sought.

RISK ASSESSMENT

Construction of the road would provide the following benefits/risk reduction to landowners:

- Continued and safer vehicular access to and from properties abutting or gaining primary access via Arthurs Road.
- Improved stormwater drainage runoff control directed towards the road from abutting properties, and protection of low side properties from stormwater runoff from the road.
- Enhanced physical and environmental amenity for abutting properties.

It is noted that this road has existed in its' current form for many years. If the proposed construction of the road does not proceed, no unacceptable or unmanageable risk would be experienced by Council.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Special Benefit and Maximum Total Levy
2. Designated Area
3. Estimated Cost of Works
4. Schedule of Costs per Property