

## DECLARATION OF SPECIAL CHARGE ARTHURS ROAD CHUM CREEK

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

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*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

Following extensive consultation with landowners, Council considered road improvement works for Arthurs Road, Chum Creek and resolved on 14 October 2025 to proceed with a Special Charge Scheme under Section 163 of the *Local Government Act 1989*.

The statutory public notice and submission period concluded on 19 November 2025. One submission was received, raising concerns about financial hardship and changing circumstances since initial consultation.

The project will be jointly funded by Council and landowners, with an estimated total cost of \$503,903. Council will contribute \$246,600 (via the Federal Government's Roads to Recovery program), and landowners will contribute \$257,304. The scheme covers 20 properties, with 78% of surveyed landowners supporting the proposal.

This report recommends declaring the Special Charge without modification. Landowners experiencing hardship may seek assistance under Council's Rate Recovery and Financial Hardship Policy. Formal notifications will follow, and affected parties may apply to VCAT for review within 30 days.

## RECOMMENDATION

### *That Council*

- 1. Having reviewed the proposed Special Charge, and considered submissions, declares the Special Charge for works on Arthurs Road, Chum Creek under Section 163 of the Local Government Act 1989, without modification.***
- 2. Notes the Special Charge applies to the area in Attachment 1, with costs in Attachment 2.***
- 3. Under Section 223 of the Local Government Act 1989, serves written notice of Council's decision to each submitter or nominated representative for group submissions.***
- 4. Serves written notice to all liable persons, advising of Council's decision and their right to seek review by Victorian Civil and Administrative Tribunal (VCAT) within 30 days of notice issue.***

## RELATED COUNCIL DECISIONS

**24 September 2019:** Council adopted an addendum to the Special Rate and Charge Scheme Policy for Infrastructure Improvements. Clause 4.6 was updated to remove the landowner contribution ceiling for projects not identified as a priority for Federal Government funding.

**20 May 2025:** Council endorsed the updated Special Rate and Charge Scheme Policy 2025. Clause 5.5 introduced a Council incentive contribution, allowing Council to provide financial incentives to landowners and acknowledge the benefits the Scheme delivers to Council.

**14 October 2025:** Council considered and resolved its intention to levy a Special Charge for Arthurs Road, Chum Creek.

## DISCUSSION

### ***Purpose and Background***

The project originated from a landowner petition in November 2020, separate from the Roads for Community Initiative Program (which operated between September 2019 and January 2023). For petition-based projects, landowner contributions were uncapped, and the \$7,000 cap applied under the RCI program did not apply. Historically, Council has contributed between 20% and 40% for similar small rural projects due to increased construction costs.

For this scheme, Council's contribution is estimated at \$161,000 (38%), with landowners funding \$257,304 (62%) of road construction costs. In addition, Council will contribute \$85,660 for longitudinal drainage within the new drainage easement.

Consultation has been undertaken with landowners along Arthurs Road regarding the proposed Special Charge Scheme.

On 14 October 2025, Council resolved its intention to declare the Special Charge. The mandatory 28-day public notice and submission period concluded on 19 November 2025. Council must now consider any submissions received and determine whether to adopt, amend, or abandon the scheme. If adopted or amended, the Special Charge can then be formally declared.

### ***Landowner support for the Project***

In November 2021, landowners along Arthurs Road, Chum Creek were surveyed to gauge support for a landowner-funded Special Charge Scheme to construct the road.

- 18 landowners (90%) responded to the survey.
- Of those respondents:
  - 14 (78%) supported the proposed Special Charge Scheme.
  - 4 (22%) opposed the proposal.

### ***Recommended option and justification***

In accordance with Section 163 of the *Local Government Act 1989*, it is recommended that Council declare a Special Charge Scheme for the construction of Arthurs Road, Chum Creek. The scheme will be funded through the Federal Government's Roads to Recovery allocation in Council's 2025/26 Capital Expenditure Program, together with landowner contributions.

Given the need for the proposed works and strong landowner support, it is recommended that Council adopt and declare the Special Charge without modification.

## **FINANCIAL ANALYSIS**

The detailed design phase has confirmed an estimated total project cost of \$503,903.

Council's contribution is estimated at \$246,600, which will be funded through the Federal Government's Roads to Recovery allocation in Council's 2025/26 Capital Expenditure Program.

Landowners will contribute \$257,304 toward the project upon adoption of this report's recommendations.

A detailed breakdown of Council costs and individual property apportionments is provided in Attachment 2 – Schedule of Costs per Property, as outlined in the Intent to Levy a Special Charge report considered by Council on 14 October 2025.

## **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 Section 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 outlines, 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**

### ***Landowner Consultation***

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 and functional design plans could be mailed to them on request.

### ***Public Notice***

In accordance with Sections 163 (1A) and 223 of the *Local Government Act 1989* Council is required to give public notice of the intention to declare a special charge.

A public notice was published in The Star Mail local newspapers on 20 October 2025 and also on Council's Internet Website.

The public notice stated that submissions in respect of Arthurs Road, Chum Creek Special Charge Scheme will be considered by Council, outlined the proposed declaration, set out the date on which it is proposed to make the declaration and advised that copies of the proposed declaration are available for inspection at Council's office for at least 28 days after the publication of the notice.

### ***Notification of Landowners Involved***

In addition to the public notice published in The Star Mail local newspapers and on Council's Internet Website, all owners of properties within the designated area of the special charge scheme were notified by mail of the proposed special charge, with an advisory notice and covering letter dated 15 October 2025.

Information relating to Council's intention to declare the special charge was extensively outlined, including the amount for which the person(s) is liable and the rights of a person to make a submission to the special charge.

### ***Persons Right to Make a Submission***

Section 163 of the *Local Government Act 1989* requires Council to consider any written submissions. These submissions should be received within 28 days after the publication of the public notice.

The formal submission period has now closed. Both the advisory notice served and the public notice published, advised that submissions must be received by 19 November 2025.

Persons making a written submission to Council are also entitled to request to appear before Council to be heard in support of their written submission.

Council must now consider any submissions received and determine whether to adopt, amend or abandon the scheme. If Council adopts or amends the Scheme, the special charge may then be declared.

### ***Submissions Received***

One written submission was received regarding Council's intention to declare a Special charge for the Arthurs Road, Chum Creek Improvement Works.

The designated area (Attachment 1) of the scheme comprises of 20 properties.

### ***Summary of Submission***

The details of the submitters concerned have been excluded from this report in compliance with the *Privacy and Data Protection Act 2014*.

In accordance with Council's resolution when the Arthurs Road, Chum Creek Intent to Levy Special Charge Report was adopted, the submitters were offered a consultation meeting to discuss their submission.

### **Submission Number 1**

*"At the time of the questionnaire... I myself supported the project. I now withdraw my support due to the following reasons*

- *4 years have passed since the initial contact.*

- *Several properties have changed owners and a review/contact may be necessary.*
- *Covid lockdowns occurred... I note financial distress for myself.*
- *12 interest rate rises over a 12 month period.*
- *Cost of living has increased from 2021.*
- *Energy costs are forecast to increase putting added pressure to cost of living.*
- *4.24% per annum is an estimate and is not fixed.*

*In summary I believe the cost outweighs the reward."*

### **Comment**

Over the past four years, Council has provided regular project updates to landowners along Arthurs Road, including the most recent information on estimated costs and submission rights. The financing rate at the time of declaring a Special Charge (currently 4.24%) will remain unchanged for the 10-year instalment period.

It is acknowledged that some landowners may experience financial hardship, and the proposed contribution could add to this challenge. However, the Special Charge provides a long-term benefit to the property, not just the current owner, and is therefore apportioned based on the benefit received rather than individual circumstances.

Landowners experiencing financial hardship may apply for assistance under Council's *Rate Recovery and Financial Hardship Policy*, where options for payment will be discussed.

### ***Formal Notification to Landowners***

Upon consideration of the submissions received and declaration of the special charge, the *Local Government Act 1989* requires those persons who have lodged a submission to be advised of Council's decision in relation to their submission.

All landowners are then to be formally notified of the special charge scheme and advised of their option to apply to the Victorian Civil and Administrative Tribunal for a review of Council's decision to introduce the special charge, as required by Section 185 of the *Local Government Act 1989*.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

As a result of landowner consultation, majority support has been identified from landowners along Arthurs Road, Chum Creek for implementing a Special Charge scheme for sealing the road and drainage improvement works.

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

The project will be jointly funded by abutting Landowners and Council (using the Federal Government's Roads to Recovery allocation in Council's 2025/26 Capital Expenditure Program).

## **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, Chum Creek.
- 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 the 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. Designated Area
2. Schedule of Costs per Property