

## HARBERTS ROAD (FROM NO.30 TO 100), DON VALLEY VARIATION OF SPECIAL CHARGE

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Report Author: Property & Project Officer  
Responsible Officer: Director Environment and Infrastructure  
Ward(s) affected: O'Shannassy;

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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

Council at its meeting on 26 July 2022 considered a report relating to the proposed construction of Harberts Road (from no.30 to 100), Don Valley and resolved to declare a special charge in accordance with the provisions of Section 163 of the Local Government Act 1989.

This report recommends the Special Charge allocated to property 24 Williams Road, Don Valley be varied from 1.0 development units to 0.5 development units and that Council fund the reduction in charge.

### RECOMMENDATION

*That*

- 1. Council varies the special charge for works associated with the Harberts Road (from no.30 to 100), Don Valley Special Charge Scheme in accordance with the provisions of Section 166 of the Local Government Act 1989, as follows.**
  - (a) The development unit allocation to property 24 Williams Road, Don Valley be reduced from 1.0 unit to 0.5 unit; and**
  - (b) Council fund the 0.5 benefit unit resulting from the reduction of apportionment to 24 Williams Road, Don Valley, estimated at \$5,266.**
- 2. Council notify those persons liable to pay the varied special charge of the variation to the Special Charge Scheme.**

## **RELATED COUNCIL DECISIONS**

At its meeting on 24 May 2022, Council advised of its intent to declare a special charge for works associated with the Harberts Road (from no.30 to 100) Don Valley Special Charge Scheme.

This report has been published on Council's website and is available by searching the Agenda for the 24 May 2022 Ordinary Meeting.

At its meeting on 26 July 2022, Council declared a special charge for works associated with the Harberts Road (from no.30 to 100), Don Valley Special Charge Scheme.

This report has been published on Council's website and is available by searching the Agenda for the 26 July 2022 Ordinary Meeting.

## **DISCUSSION**

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

At its meeting on 26 July 2022, Council considered a report recommending that Council declare a special charge for works associated with the Harberts Road (from no.30 to 100), Don Valley Special Charge Scheme. Properties involved in the scheme and charge allocation were detailed in Attachment 3 of that report.

The Special Charge remains in force for the period commencing on 1 July 2023 and concluding on 30 June 2033. The period for making formal submissions to the scheme closed 29 June 2022. The subsequent VCAT submission period ended 29 August 2022. Council was advised by VCAT that one incomplete submission was received (24 Williams Road, Don Valley).

An on-site meeting with the landowner and Council officers to discuss the VCAT submission occurred in September. At this meeting, the landowner outlined due to the steepness of the embankment and heavy vegetation, they cannot access their property via Harberts Road and requested their charge be reviewed.

The landowner also advised they would not complete their VCAT submission. An email on 18 November 2022 from VCAT confirmed 'To date, VCAT has not received a full and complete application regarding the above, therefore there is no open matter before the Tribunal'.

The property 24 Williams Road, Don Valley see attachment 1, comprises of two lots, one with frontage to Williams Road (developed with a house - lot 59 LP 15766) and one with frontage to Harberts Road (undeveloped - lot 64 LP 15766). Lot 64 is included in the Special Charge Scheme and was allocated a charge of 1.0 development units, based on the development potential of the parcel.

Council's Planning department have subsequently advised a planning permit would be required for the 'use and development of a dwelling' on the vacant lot which would need to meet the requirements under the Green Wedge Zone (GWZ) and Bush Fire Management Overlay (BMO). Whether a dwelling could be constructed

would depend on how well the application addressed the vegetation, bushfire and amenity issues. It's possible a permit could be issued but it would not be straight forward.

In recognition of the difficulties for this property to be developed, in comparison to other properties along Harberts Road, it is recommended that the charge allocated from this property be reduced from 1.0 to 0.5 development units.

Had there been an understanding of the possible constraints for development potential, the property at 24 Williams Road, Don Valley (Lot 64) would have only been allocated 0.5 development units in the declaration of the special charge.

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

It is recommended that Council vary the special charge for works associated with the Harberts Road (from no.30 to 100), Don Valley Special Charge Special Charge Scheme in accordance with the provisions of Section 166 of the Local Government Act 1989, as follows:

- The development unit allocation to property 24 Williams Road, Don Valley be reduced from 1.0 units to 0.5 unit; and
- Council fund the 0.5 benefit unit resulting from the reduction of apportionment to 24 Williams Road, Don Valley, estimated at \$5,266.

It is also recommended that Council notify those persons liable to pay the varied special charge of the variation to the Special Charge Scheme.

## **FINANCIAL ANALYSIS**

Variation of the special charge allocated to property 24 Williams Road, Don Valley from 1.0 development units to 0.5 development unit will require Council to fund the subsequent reduction in allocated charge being \$5,266.

On variation, the landowner component of the Special Charge Scheme will reduce from \$194,817 to \$189,552.

The Council component of the Special Charge Scheme will increase from \$48,704 to \$53,970.

There is a total of \$245,000 set aside for this road construction project in the 2022/23 Capital Expenditure Program. The variation of charge will not require additional funds to be sought.

Attachment 2 - Schedule of Costs per Property, details the varied landowner and Council contributions towards the project.

## **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 for Infrastructure Improvements sets out in detail the procedures for managing Special Charge Schemes.

## **RELEVANT LAW**

Section 166 of the Local Government Act 1989 states that Council must ensure that those persons who are liable to pay a special charge which is varied are notified it is varied.

## **SUSTAINABILITY IMPLICATIONS**

### ***Economic Implications***

The construction of the road would be undertaken utilising contractors from Council's Road Construction and Associated Works Panel. This panel was established with a majority of local smaller contractors which will help provide economic support to these local businesses.

### ***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 for Infrastructure Improvements notes that those landowners with a demonstrated financial hardship may apply for assistance in accordance with Council's Rate Recover and Financial Hardship Policy.

### ***Environmental Implications***

All works will be completed in compliance with Council's Code of Environmental Practice for Works on Council Managed Land.

## **COMMUNITY ENGAGEMENT**

This was outlined in the Harberts Road (from no.30 to 100), Don Valley- Intent to Levy Special Charge Council Report. This report was published on Council's website and is available by searching the Agenda for the 24 May 2022 Ordinary Meeting.

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

Projects constructed under the Roads for Recovery Program have been jointly funded by the Federal Government and participating landowners.

## **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 the 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; and
- Enhanced physical and environmental amenity for abutting properties.

## **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. Aerial Plan 24 Williams Road, Don Valley
2. Revised Schedule of Costs per Property