

## VARIATION PAYMENT DATES PREVIOUSLY DECLARED SPECIAL CHARGE SCHEMES

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Report Author: Special Charge Scheme Officer  
Responsible Officer: Director Built Environment and Infrastructure  
Ward(s) affected: (All Wards);

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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 11 April 2023 resolved that Council consider a report at a future meeting prior to 1 July 2023 to modify the payment dates for seven Special Charge Schemes that will proceed to construction but will not begin delivery when the Special Charge Scheme is due to be levied on 1 July 2023.

This report recommends modifying the commencement of landowner payment dates from 1 July 2023 to 1 July 2024 for the following (referred as the seven Special Charge Schemes):

- Alpine Street, Cecil Street and Glenbrook Road, Warburton
- Welham Road, Mooroolbark - Bretby Way, Montrose
- Emery Lane Montrose
- Alfred Street and John Street, Wandin North
- Tainton Street and Railway Parade, Wandin North
- Cedar Court, Burns Way (includes Harvest Close), Loch Avenue and Mayview Drive, Monbulk

## RECOMMENDATION

### *That Council*

1. ***Modify the landowner payment dates for seven Special Charge Schemes from 1 July 2023 until 1 July 2033 to 1 July 2024 until July 2034 as the road construction will not commence before charges are due to be levied.***
  - (a) ***Alpine Street, Cecil Street and Glenbrook Road, Warburton.***
  - (b) ***Welham Road, Mooroolbark.***
  - (c) ***Bretby Way, Montrose.***
  - (d) ***Emery Lane, Montrose.***
  - (e) ***Alfred Street and John Street, Wandin North.***
  - (f) ***Tainton Street and Railway Parade, Wandin North.***
  - (g) ***Cedar Court, Burns Way (includes Harvest Close), Loch Avenue and Mayview Drive, Monbulk.***
2. ***Modify the expiry date of the special charge if it is not levied to each person liable to pay it from within 12 months to within 24 months after the day on which the declaration to which the rate or charge it relates to was made.***
3. ***Notify those persons liable to pay the special charge of the modification of payment dates for the Special Charge Scheme and provide new instalment arrangements.***

## RELATED COUNCIL DECISIONS

- 11 April 2023 Council considered a report on Federal Funding Cuts to the Roads to the Community Program;
- 14 June 2022, Council advised of its intent to declare a special charge for works associated with Alpine Street, Cecil Street and Glenbrook Road, Warburton;
- 13 September 2022, Council advised of its intent to declare a special charge for works associated with Welham Road, Mooroolbark and Bretby Way & Emery Lane, Montrose; and
- 27 September 2022, Council advised of its intent to declare a special charge for works associated with Tainton Street and Railway Parade Wandin North. Cedar Court, Burns Way (includes Harvest Close, Loch Avenue and Mayview Drive, Monbulk.

The reports have been published on Council's website and are available by searching the Agenda for the relevant Council meeting dates.

## **DISCUSSION**

### ***Purpose***

The purpose of this report is to seek formal Council approval to modify landowner payments to special charge schemes that have been delayed as a result of recent Road for Community Funding Cuts. The period for when payments are levied, and instalment arrangements is to be amended to align with construction start dates.

### ***Background***

The Local Government Act 2020 introduced changes that a Special Charge Scheme expires if the charge is not "levied" within 12 months of the Scheme date, this standard reference refers more appropriately to Special Rate Schemes (like promotion/economic development schemes for, say a shopping area) which apply year on year but must have a time period.

Due to the delays because of the Federal Government reducing the funding for the Roads for the Community Initiative, the Schemes that are to continue need to be levied within 12 months and a payment instalment process put in place to align the commencement of construction with the due payment. Each of the seven schemes that have been preserved may have different construction start dates and corresponding instalment payment dates.

To ensure the process is manageable in the future and address the administrative issues associated with Capital Schemes being levied within the 12-month deadline, a date for payment falling due of 2 years might be considered or a consistent date and instalment plan within the scheme process established.

At its meeting 11 April 2023 Council considered a report on Federal Funding Cuts to the Roads to the Community Program.

One of the recommendations was to modify the landowner payment dates for the seven Special Charge Schemes that will proceed to construction but not begin delivery when the Special Charge Scheme is due to be levied on 1 July 2023.

The payment start instalment dates are to align with the construction start dates and be in place for a period of 10 years.

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

That Council modifies the landowner payment dates from 1 July 2023 to 1 July 2024 for the seven Special Charge Schemes and notify those landowners who are liable to pay the special charge.

That Council also modify the expiry date of the special charge if it is not levied to each person liable to pay it from within 12 months to within 24 months after the day on which the declaration to which the rate or charge relates was made.

That before the Special Charge Scheme is levied new instalment plan arrangement is to be offered for a period from 1 July 2024 for a period of 10 years or such other trigger date or event as advised.

## **FINANCIAL ANALYSIS**

Council has approved the remaining Federal Government Roads for Community funding be used towards funding the seven road construction projects.

The modification in landowner repayment dates will not adversely impact the cost or delivery of these projects.

## **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**

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

After complying with the procedure for levying a special charge a Council may vary the special charge under Section 166 of the *Local Government Act 1989*.

Council must ensure that those persons who are liable to pay the special charge are notified of the decision to vary the special charge. The key to the ability to defer instalments is founded in separation of the declaration of the scheme from the payment arrangements.

## **SUSTAINABILITY IMPLICATIONS**

### ***Economic Implications***

The construction of the roads 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 these landowners with a demonstrated financial hardship may apply for assistance in accordance with Council's Rate Recovery 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.

The sealing of local roads assists in reducing the impacts to the road condition from increased storm events, predicted as a result of climate change. Unsealed roads greatly deteriorate in condition following storm events creating an increased stress on service delivery for the unsealed road network.

## **COMMUNITY ENGAGEMENT**

Landowners of properties that abut projects that will be proceed have been provided with update letters regarding the status of their project following the recent Federal Government funding cuts to the program.

On adoption of this report's recommendations, affected landowners will be notified of modification of payment dates of the Special Charge Scheme.

## **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 roads 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**

Nil