

6.2.6 Finalisation of special charge scheme – Christians (Emerald) Catchment - Sealing the Hills

Responsible GM: Peter Benazic
Author: Nicole Alvares

Recommendation(s)

That Council having declared a special charge on Monday, 20 June 2022, for the purposes of partially recovering the expenses incurred by Council in relation to the survey, design, and construction of Andrew Court and Christians Avenue, Emerald, including a sealed road pavement, kerb and channel and associated drainage and ancillary works:

1. Adopt a final scheme cost of \$662,815.76, which is 54% more than the previously advised total estimated scheme cost of \$430,000 on which the scheme was declared.
2. Note that a fixed charge of \$7,000 per benefit unit was declared on all included properties within the scheme area in accordance with attachments 2 and 3 to this report.

Attachments

1. Scheme process chart [6.2.6.1 - 1 page]
2. Plan of scheme area [6.2.6.2 - 1 page]
3. Confidential table [6.2.6.3 - 1 page]

Executive Summary

Council declared a special charge to fund portion of the cost of constructing Andrew Court and Christians Avenue, Emerald on Monday, 20 June 2022.

The estimated cost of the works at the time of declaration was \$430,000 with \$105,000 property owner contribution based on \$7,000 per benefit unit and \$325,000 Council contribution, to be funded from the Australian Government grant.

The actual cost of the works following construction plus 15% to cover survey, design and administration costs totalled \$662,815.76. The amount recovered from property owners, based on the fixed amount of \$7,000 per benefit unit remains at \$105,000, therefore Council's contribution of Australian Government grant funds increases to \$557,815.76.

The cost increases were due to higher-than-expected tender submission prices for the project. This was a direct result of market cost escalations and due to a lack of availability of contractors willing to engage in contracts of low dollar value (when compared to other contracts available in the market at the time).

Background

The Christians (Emerald) catchment that includes Andrew Court and Christians Avenue, Emerald was included for construction in Council's Sealing the Hills program. The properties included are shown on the plan included as attachment 2 to this report.

A survey of the property owners within the scheme boundary, (total of 16), was undertaken asking if they were in support of contributing to a special charge scheme at a capped contribution rate of \$7,000 per benefit unit, with a benefit unit being defined as:

- Existing lots, either developed or vacant, that gain, or will gain, primary (vehicular) access from a road being constructed would generally be required to contribute one benefit unit (\$7,000) towards the cost of construction.

- Existing lots, either developed or vacant, with side or rear abuttal to a road being constructed would generally be required to contribute one half benefit unit (\$3,500) towards the cost of construction.
- Existing lots, either developed or vacant, that gain, or will gain, primary access and have side or rear abuttal to roads being constructed would generally be required to contribute one benefit unit (\$7,000) in total.
- Existing lots that have the potential to be further subdivided or developed may be allocated a multiple development benefit unit charge.

Following the survey of the property owners, where 86% of the responses received indicated support for the scheme, Council resolved to issue a notice of decision to declare a special charge on the included properties at its' Council meeting on Monday, 11 April 2022. The scheme was subsequently declared by Council, following the required advertising and 28-day submission period at the Council meeting on Monday, 20 June 2022.

The scheme construction works are now complete, with practical completion being issued on Monday, 17 April 2023.

Policy Implications

The proposed special charge scheme has been developed in accordance with the provisions of the Local Government Act, Cardinia Councils Special Rate and Charge Policy and the adopted Sealing the Hills program. It is based on community benefit, health, safety, amenity, and property owner support.

Section 163 of the Local Government Act provides that Council may not recover a greater portion of the cost of the works than calculated in accordance with the statutory 'benefit ratio' as set out in the previous *notice of decision* report presented to Council on 11 April 2022. Given that Council has capped the property owner contribution at \$7,000 per benefit unit, the proposed scheme is compliant.

Relevance to Council Plan

2.1 We support the creation of liveable spaces and places

2.1.5 Upgrade Council's road network to improve safety and connectivity while considering traffic demand and freight transport needs.

Climate Emergency Consideration

The Sealing the Hills project will consider climate emergency reduction measures such as:

- minimising tree removal through innovative road design
- use of LED lighting to reduce energy emissions
- utilising local contractors and local road & drainage construction materials to minimise travel
- investigating the reuse and use of recycled road construction materials

Consultation/Communication

Extensive consultation was undertaken with the affected property owners, including a formal questionnaire that revealed majority property owner support for the scheme, prior to Council determining to proceed with the special charge scheme legislative process as outlined in Section 163 of the *Local Government Act 1989*.

Council resolved to issue a notice of decision to declare the scheme at its Council meeting 11 April 2022. Property owners were then sent a letter and advertisements outlining the proposal placed in the Pakenham Gazette and Hills Trader, providing owners with the opportunity to make a submission or objection within the prescribed 28-day period. With no opposing submissions received, Council declared the scheme at its meeting on Monday, 20 June 2022.

Financial and Resource Implications

The scheme funding arrangements are as outlined in Table 1.

Table 1. Estimated and Actual project cost

Original estimated cost of the project	\$430,000.00
Actual cost of the project	\$662,815.76
Original Council contribution	\$325,000.00
Adjusted Council contribution	\$557,815.76
Benefiting property owner contribution	\$105,000.00

Note: the estimated project cost includes an allowance of 15% for design, supervision, and administration of the scheme.

The Australian Government \$150m grant will be used to fund Council's contribution.

Property owners will be offered the option of paying their contribution in full, or by quarterly instalments over 7-years. Instalment payments will include principle and interest, with interest calculated at the declaration of the scheme based on Council's borrowing rate at the time plus one percent.

Council will require the first payment, either in full or by instalment to be made within 6-months of the practical completion of the works.

Conclusion

That Council note:

1. The actual cost of the Christians (Emerald) catchment scheme works is \$662,815.76, which is 54% more than what was originally estimated. This means that Council's contribution to the scheme of Australian Government grant funds has increased by \$232,815.76.
2. The property owner contribution to the scheme remained fixed at \$105,000 based on the capped contribution amount of \$7,000 per benefit unit as outlined in attachment 3 to this report.

Sealing the Hills program Special Charge Scheme process checklist



Special charge scheme projects (Section 163 Local Government Act)

Complete	Stage	Description
✓	Survey of landowners	Initial survey of property owners to assist in determining the need, associated issues and level of support for the proposed works and special rate/charge scheme.
✓	Approval to prepare scheme	Decision made to prepare scheme or to shelve project following consideration of the survey of property owners and feedback from the community. <ul style="list-style-type: none"> If the decision is that the scheme should proceed, the engineering design is completed, and a detailed estimate and an apportionment of costs are prepared. If a decision is made that the scheme should not proceed based on resident and community feedback, the affected residents are advised accordingly
✓	Intention to declare scheme	Report to Council providing information on proposed scheme including advice of impending advertising of scheme and declaration of charge. Report seeks Council approval by resolution to proceed with process.
✓	Advertisement and notification	The proposed scheme is advertised in the local newspaper and all affected property owners are notified by mail of proposed works, costs and contributions. This advertisement and notification indicate Council's intention to <i>declare</i> a scheme in a month's time and seeks submissions from affected property owners. Details of the scheme may be inspected at the shire offices.
✓	Submissions	From the time of advertising, property owners have 28 days (as set down by the Act) to lodge submissions, either in support or opposing the proposed scheme.
	Submissions review panel hearing	A Submissions Review Panel is convened (may be Council Committee or whole Council) and meets to consider submissions. Some submissions are written only. Submitters may also request to be heard before the committee. The panel makes a recommendation to Council regarding the scheme.
	Abandonment of scheme	The panel may recommend to Council that the scheme be abandoned. After considering the panel's report, Council may proceed to abandon the scheme following which property owners are notified and the scheme does not proceed.
✓	Declaration report	Alternatively, the panel may recommend to Council that the scheme proceed. After considering the panel's report, Council may proceed to <i>declare</i> the charges in accordance with its advertised intent. <ul style="list-style-type: none"> After this the Finance Manager issues the levy notices and there is a formal charge placed on the property. Invoices are issued seeking payment of the declared contribution. Payment may be made by instalments or lump sum. The social responsibility provision of Council's Special Charge Scheme Policy provides for those facing financial difficulty This is the final step in the process for Council to make a decision on the scheme
✓	Appeal	Property owners may lodge an application for review of Council's decision with the Victorian Civil and Administrative Tribunal (VCAT) within one month of issue of the levy notice. An appeal is listed, heard and determined by the tribunal and this process generally takes four to six months. Decisions made by VCAT are binding on all parties.
✓	Construction	Council may then proceed to construction. Tenders are invited and a contractor appointed to construct the works. Invoices are issued seeking payment of the declared contribution. Payment may be by instalments or lump sum. The social responsibility provisions of Council's Special Charge Policy provide for those facing financial difficulty.
✓	Final cost report	At the completion of the works, the scheme is <i>finalised</i> , and a report presented to Council.

CHRISTIANS CATCHMENT – PROPERTIES INCLUDED

CHRISTIANS AVENUE, ANDREW COURT, EMERALD 3782



Cardinia Shire Council
ABN: 32 210 906 807
20 Siding Ave, Officer

PO Box 7
Pakenham 3810
(DX 81006)

Phone: 1300 787 624
Email: mail@cardinia.vic.gov.au
Web: www.cardinia.vic.gov.au