

8 FINALISATION OF SPECIAL RATE AND CHARGE SCHEME FOR DESIGN OF INFRASTRUCTURE TO SERVICE HILL, O'SULLIVAN AND PEET STREETS' INDUSTRIAL AREA, PAKENHAM

FILE REFERENCE INT1846411

RESPONSIBLE GENERAL MANAGER Michael Ellis

AUTHOR Ken White

RECOMMENDATION

That Council having declared a special charge on the 28 April 2014 for the purpose of defraying expenses incurred by Council in relation to project management, administration, survey and preparation of engineering designs for provision of infrastructure services to the properties in the area known as the Peet Street industrial area,

- 1 Adopt the final scheme cost of \$334,021 which is \$7,321 (2.24%) more than the \$326,700 estimate on which the special charge was declared;
- 2 Vary the special charge as declared to accord with actual costs incurred in accordance with Sections 165 and 166 of the Local Government Act 1989 and as shown in Schedule A (Attachment 3) so that all parties pay no more than their fair share of the actual costs incurred;
- 3 Forward notices advising of the adjustment to the owners of those properties who are liable to pay the special charge; and
- 4 Adjust the repayments accordingly

Attachments

- | | | |
|---|---------------------|--------|
| 1 | Process chart | 1 Page |
| 2 | Plan of scheme area | 1 Page |
| 3 | Apportionment table | 1 Page |

EXECUTIVE SUMMARY

Council declared a special charge scheme on 28 April 2014 to fund the full cost of designing the infrastructure to properly service the Peet Street industrial area, Pakenham. This scheme was the precursor to the special charge scheme declared on 15 May 2017 to fully fund construction of those works which is currently being implemented.

The special charge was based on the estimated cost of designing the works and levied over the properties shown in the Plan of the Scheme Area contained in Attachment 2. Now that the actual design costs are known, the charges require adjusting so that contributors pay no more than the actual cost of the design work. In this case costs are \$7,321 (2.24%) more than the \$326,700 estimate. Council is required to distribute costs in excess of the estimate over all contributors proportionate to their initially declared contributions.

It is therefore proposed to vary the special charges by increasing the amount levied on all contributors proportionately by approximately 2.24% as set out in Attachment 3 in accord with Council's Special Rate and Charge Scheme Policy and the requirements of the Local Government Act 1989.

BACKGROUND

The Peet Street industrial area is an old subdivision done before developers were required to provide infrastructure. Generally the lots fronting Bald Hill and Koo Wee Rup Roads have been developed to varying degrees as they have had access to these roads and most services. The remainder of the area is undeveloped as there are very few services and the roads only exist 'on paper'. Landowners of these lots sought Council assistance to implement a scheme to provide and fairly share the cost of servicing the area as it was generally too expensive for any one landowner to develop alone especially when infrastructure provided by him/her would be available to service the other lots for free.

Subsequently Council approached the issue with two special charge schemes; the first being to prepare designs and estimates of cost for the works and the second to fund construction of the works. It was not practical to prepare a single 'design and construct' scheme as the design costs for what is effectively a commercial venture by landowners were too great for Council to bear in the event of the construction scheme not proceeding. Furthermore it was not possible to scope a construction scheme without knowing what infrastructure would be required and its associated costs. As Council can only vary these schemes by a maximum of 10%, it is important to accurately know what infrastructure is required and its associated cost so that Council is not exposed to unnecessary financial risk.

Council declared a special charge on the 28 April 2014 to fully fund preparation of designs and estimates of cost to provide infrastructure to properly service the industrial lots bounded by Koo Wee Rup Road, Bald Hill Road, Rapid Way and the Pakenham Bypass reserve. (Refer Plan in Attachment 2) This infrastructure included the section of Melbourne Water's Deep Creek South Drainage Scheme within that area, full construction of Hill, Peet and O'Sullivan Streets, the Peet Street / Koo Wee Rup Road intersection and south side of Bald Hill Road including kerb and channel, underground drainage, pavement, seal and footpaths, underground electricity including street lighting, and reticulated water and sewerage services. The designs and estimates have now progressed to the point where final costs for the design scheme are known and the ensuing construction special charge scheme has commenced.

There is an overlap between the two schemes as the designs and approvals could not be finalised until the construction scheme was in place as those approvals lapse after a relatively short period of time. It is now important to finalise the design scheme to recoup the costs incurred before seeking payment for the construction scheme so as to limit the potential for confusion amongst landowners by having overlapping payments for both schemes.

The design special charge scheme was declared on the basis of estimated design costs. Council is required to finalise the design scheme by varying the charges proportionately to accord with the actual costs incurred. This will complete the statutory process associated with the design special charge scheme. (Refer Process Chart in Attachment 1)

Final costs for the scheme have been assessed at \$334,021 taking into account design, administration and project management costs, this being \$7,321 (2.24%) more than the estimated costs on which the special charge was declared. When finalising special charge schemes to align charges with actual costs incurred, Section 165 of the Local Government Act requires Council to levy these additional costs proportionate to the contributions paid by the current owners of the subject land. Consequently, contributors are required to contribute 2.24% more than the amount initially levied.

POLICY IMPLICATIONS

Section 165 of the Local Government Act requires any additional contributions to meet the actual scheme costs to be recovered from the current owners of the subject land proportionate to the declared levy.

Council's Special Rates and Charges Policy reflects this legislative provision. It also provides that in the event of costs exceeding the estimate, Council will not seek to increase the charge by more than 10%.

RELEVANCE TO COUNCIL PLAN

Special Rate and Charge Schemes relate directly to the Council Plan goal of increasing the use of these schemes to finance road improvement programs. It is a legislative requirement that these schemes are finalised once the works are complete and actual costs are known.

CONSULTATION/COMMUNICATION

Special charge schemes involve a formalised consultation process as set out in the Process Chart (Attachment 1). In this case, additional extensive consultation was undertaken with affected property owners via a series of landowner meetings over several years prior to declaring the scheme. A further four meetings occurred during the design process and as part of preparing the construction special charge scheme.

All affected landowners will be notified in writing of finalisation of the scheme and the adjustments to their individual contributions; in this case being a small increase of 2.24%.

FINANCIAL AND RESOURCE IMPLICATIONS

The Capital Budget provided funding for this project based on estimated 'design' scheme costs and associated contributions to recover 100% of these costs. There is no Council contribution in view of the commercial nature of the scheme. The following table sets out estimated versus actual funding requirements:

Item	Estimated	Actual	Increase
Scheme Total Cost	\$326,700	\$334,021	\$7,321 (2.24%)
Landowner Contributions (100%)	\$326,700	\$334,021	\$7,321 (2.24%)

Completion of the project for 2.24% more than the estimated costs will result in a slightly greater charge being levied on all contributing properties. The adjusted contributions are set out in the attached Table of Finalised Charges (refer Attachment 2).

CONCLUSION

Council's Special rates and Charges Policy and the provisions of the Local Government Act require special charge schemes to be finalised to accord with actual costs once works are complete and costs known. Having considered those costs, it is concluded that the special charges levied for design of this infrastructure should be adjusted proportionately and increased by approximately 2.24% to accord with the actual costs incurred as set out in this report and the Table in Attachment 3.

ATTACHMENT 1 - PROCESS CHART

SPECIAL CHARGE PROJECTS – (Section 163 – Local Government Act 1989)

	<i>Stage</i>	<i>Description</i>
✓	<i>Survey of Landowners</i>	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. Survey based on preliminary investigations.
✓	<i>Approval to prepare scheme</i>	Decision made to prepare scheme or to shelve project following consideration of surveys of property owners and feedback from the community. Council may proceed by placing the project in the budget system or commencing immediately to prepare a scheme. Scheme preparation involves survey, design, detailed estimates and preparation of an apportionment of costs.
✓	<i>Intention to Declare Scheme</i>	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.
✓	<i>Advertisement and Notification</i>	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 indicates Council's intention to 'declare' 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.
✓	<i>Submissions</i>	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. If intending to recover more than 2/3 of scheme cost from contributors, they have 28 days to object to the scheme.
✓	<i>Submissions Review Panel Hearing</i>	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.
	<i>Abandonment of scheme</i>	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.
✓	<i>Declaration Report</i>	Alternatively the Panel may recommend to Council that the scheme proceed. After considering the Panel's report, Council may proceed to "declare" the charges in accordance with its advertised intent. Subsequent to this the Finance Manager issues the levy notices and there is a formal charge placed on the property. This is the final step in the process for Council to make a decision on the scheme.
	<i>Appeal</i>	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.
✓	<i>Design of Infrastructure</i>	Council may then proceed to design the infrastructure. Tenders are invited and a contractor appointed to design the works. Invoices are issued seeking payment of the estimated cost within one month of commencement. Payment may be by instalments or lump sum. The Social Responsibility provisions of Council's Special Charge Policy provides for those facing financial difficulty.
	<i>Final Cost Report</i>	At the completion of the design works, the design scheme is "finalised" taking into account actual costs incurred and payments are adjusted accordingly.

ATTACHMENT 3 – SCHEDULE OF VARIED CHARGES

DESIGN OF INFRASTRUCTURE TO SERVICE O’SULLIVAN – HILL – PEET STREETS INDUSTRIAL AREA, PAKENHAM SPECIAL CHARGE SCHEME

Column 1	Column 2	Column 3	Column 4
Assessment Number	Property Address	Legal Description	\$
4465354200	Koo Wee Rup Rd	L1 TP136842	1,243.14
4465354300	1275 Koo Wee Rup Rd	L1 TP111692	1,243.14
3054054200	73 Bald Hill Rd	CP166554	2,503.77
3054054100	71 Bald Hill Rd	L1 TP867555	702.98
5000003282	Peet St	L4 PS546336	44,714.62
5000003281	Peet St	L3 PS546336	18,354.68
5000003280	Peet St	L2 PS546336	14,510.28
5000003279	Peet St	L1 PS546336	7,061.75
4680400100 (Pt)	Peet St	L5 PS546336	27,789.87
3394200200	Hill St	L1 TP91809	24,377.97
4465354140	Koo Wee Rup Rd	L4 PS422930	16,596.57
4465354130	Koo Wee Rup Rd	L3 PS422930	16,596.57
4465354120	1225 Koo Wee Rup Rd	L2 PS422930	15,432.94
3054055400	Bald Hill Rd	L1 TP96974	9,493.80
3054055100	77-79 Bald Hill Rd	L1 TP709856	4,297.89
3054055100	77-79 Bald Hill Rd	L1 TP710933	1,350.57
3054055100	77-79 Bald Hill Rd	L1 TP96975	14,123.49
Parent Lot	1265 Koo Wee Rup Rd	L1 PS422930	12,702.14
3640850100	O` Sullivan St	L17 LP2003	7,095.39
3054055300	83 Bald Hill Rd	L1 TP205373	4,069.68
5000005468	6/81 Bald Hill Rd	L6 PS616168	321.31
5000005467	5/81 Bald Hill Rd	L5 PS616168	278.47
5000005466	4/81 Bald Hill Rd	L4 PS616168	257.05
5000005465	3/81 Bald Hill Rd	L3 PS616168	257.05
5000005464	2/81 Bald Hill Rd	L2 PS616168	278.47
5000005463	1/81 Bald Hill Rd	L1 PS616168	749.73
3054054900	75 Bald Hill Rd	CP170066	5,330.18
4680400100 (Pt)	Peet St	PC363966	45,722.60
5000001830	Hill St	PC368230	23,593.85
3054055700	89 Bald Hill Rd	PC367126	2,816.86
3054055600	87 Bald Hill Rd	L1 TP89403	2,394.19
3054055500	85 Bald Hill Rd	L1 TP96973	7,759.99
			334,021.00