

GENERAL REPORTS

2 **PROPOSED SPECIAL CHARGE SCHEME FOR CONSTRUCTION OF INFRASTRUCTURE TO SERVICE HILL, O'SULLIVAN AND PEET STREETS' INDUSTRIAL AREA, PAKENHAM**

FILE REFERENCE INT178713

RESPONSIBLE GENERAL MANAGER Michael Ellis

AUTHOR Andrew Barr

RECOMMENDATION

That Council:

1. Acknowledge the prior consultation and level of landowner support as set out in this report including agreement to contribute to a special charge scheme to construct infrastructure to service the O'Sullivan – Hill – Peet Streets Industrial Area, Pakenham as set out in Attachment 2;
2. Approve the draft designs, estimates of cost and specifications generally describing the infrastructure services including sealed roads, intersections, kerb & channel, reticulated water and sewerage services, underground drainage, underground electricity, street lighting and telecommunications required to service land within the O'Sullivan – Hill – Peet Streets Industrial Area as set out in the estimate in Attachment 3;
3. Adopt the assessment of the Benefit Ratio for the proposed special charge scheme to fund these works as set out in Attachment 4 of this report;
4. Adopt the proposed area of the scheme and method of apportionment set out in Attachments 2 and 5 respectively;
5. Approve the proposed advertisement in Attachment 7 and give notice of intention to declare a special charge in accordance with the proposed declaration set out in Attachment 6 to fund finalising authority agreements and fees, designs and specifications and to construct infrastructure including land acquisition, sealed roads, intersections, kerb & channel, reticulated water and sewerage services, underground drainage, underground electricity, street lighting and telecommunications to service land within the O'Sullivan – Hill – Peet Streets Industrial Area;
6. Consider that declaration (Attachment 6) at its meeting of the 16 May 2017 or such later date as necessary;
7. Appoint Cr Owen, Cr Ross, Cr Ryan and Cr Schilling as a Committee with a quorum of two to hear and provide recommendations in relation to all submissions received pursuant Section 223 of the Local Government Act with respect to this scheme;
8. Determine the meeting of the Committee appointed to hear submissions be held commencing at 3.00pm Tuesday 11 April 2017 or such later time as determined necessary by the General Manager Assets and Services;
9. Authorise the General Manager Assets and Services to carry out the administrative

arrangements to enable submissions to be heard and considered; and

10. Approve the Public Notice as set out in Attachment 7 to be advertised in the Pakenham-Berwick Gazette as a newspaper that may service the area

Attachments

1	Scheme process chart	1 Page
2	Plan of area	1 Page
3	Estimated cost	2 Pages
4	Benefit ration calculation	2 Pages
5	Apportionment table	1 Page
6	Proposed Council declaration	2 Pages

EXECUTIVE SUMMARY

This report seeks to commence the formal consultative process to implement a Special Charge Scheme to fund construction of infrastructure to service the O'Sullivan – Hill – Peet Streets Industrial Area, Pakenham. Refer Attachment 1 - Scheme Process Chart.

This follows the Design Scheme reaching the stage where plans and estimates of cost are sufficiently developed to enable the Construction Scheme to be prepared.

Some landowners have requested Council to facilitate its development via a special charge scheme so costs are fairly shared. The scheme provides for landowners to meet the full cost consistent with other commercial developments and will provide significant economic and social benefits to the Cardinia Shire Community.

Four separate meetings have been held and a land owner survey was conducted in April 2016 providing indicative construction costs and contributions. Survey responses yielded a reasonable level of support with owners of 20 of the 32 individual properties, responsible for approximately 90% of the project cost, supporting construction of the works.

The total project cost is estimated to be \$10,298,823.95.

This report initiates the statutory process for the Special Charge Scheme (Attachment 1) and approves the issuing of the first statutory notice, 'Notice Of Intention to Declare a Special Charge' to commence the formalised consultative process.

BACKGROUND

The purpose of this report is to initiate a special charge scheme to fully fund construction of infrastructure to service the O'Sullivan – Hill – Peet Streets Industrial Area, Pakenham as shown on the Plan in Attachment 2. This is an old estate subdivided prior to subdividers being required to provide basic services and much of the estate remains without trafficable roads and constructed drains, electricity, water supply and sewerage infrastructure rendering the land virtually incapable of being used.

Ownership of the land is considered too fragmented for any one developer to properly coordinate development of the area. The high costs of providing services by the first landowner to develop their land and the free ride afforded to later adjoining property owners has and continues to stymie

development of the area leaving this high profile industrial precinct undeveloped, projecting a poor image at the gateway to Pakenham.

The infrastructure required to be constructed are developer works ordinarily funded and managed by the developers. However, the fragmented ownership means no owner/developer would be in effective control and able to coordinate the works without excessive levels of risk or cost. Notwithstanding and to assist, Council can employ its Special Rate and Charge powers to co-ordinate construction and fairly distribute, on a proportionately equitable basis, the cost of these essential infrastructure works between all benefiting landowners.

Several of the worst affected landowners have been seeking to have Council exercise those powers. Landowners have been reluctant to commit to construction of works without having some certainty on what the construction costs would be. Similarly, Council could not prepare a construction scheme without certainty on what works or costs would be involved. These construction costs and the associated special charge levy could only be determined once plans, specifications and estimates of cost are prepared which in themselves required an estimated investment of \$326,700.

In view of the significant up-front cost to prepare designs and cost estimates, Council resolved to approach this project via two Special Charge Schemes comprising:

- Scheme 1 – To prepare designs, specifications and estimates of cost to fully service the area; and
- Scheme 2 – A subsequent scheme to construct the infrastructure to service the area.

The first scheme is sufficiently progressed to provide adequate design plans, specifications and estimates of cost enabling the second scheme to be prepared and presented. The first scheme cannot be finalised as the plans, specifications and agreements involving the service authorities cannot be finalised more than 2-3 months before construction commences. This is because service authority approvals will lapse. The administrative process to establish the second Special Charge Scheme is anticipated to take up to six months. It is therefore proposed to finalise the first scheme closer to the time of construction and when plans, specifications and public authority agreements are completed.

This report is intended to initiate Scheme 2 to construct infrastructure required to service the O'Sullivan – Hill – Peet Streets Industrial Area as shown within the bold black line on the Plan in Attachment 2 including sealed roads, intersections, kerb & channel, reticulated water and sewerage services, underground drainage, underground electricity, street lighting and telecommunications. The estimated cost of constructing this infrastructure is \$10,298,823.95.

It is proposed to distribute costs for providing each individual service across the properties deemed to benefit by provision of that service, generally on the basis of relative area. A weighting is also proposed to reflect the additional benefit received by those properties that are otherwise very difficult to develop. All these type of properties are presently undeveloped.

Proposed contributions range from \$410 for those few properties only receiving access to upgraded telecommunications services to \$1.882 million for the largest property that currently has no services or access. These larger properties are owned by 'developers' wishing to develop and subdivide their land as a commercial venture but are currently not able to proceed because it is not viable to do so individually. Refer Attachment 3 - Apportionment Table.

A special charge may be levied on properties deriving 'special benefit' from proposed works to offset those costs. Many of these properties are already partly supplied with these services however none

are fully serviced. These properties will receive varying degrees of special benefit from the supply of additional services. In accordance with principles established by VCAT, it is also not necessary for these property owners to avail themselves of the 'special benefit' to be deemed to be in receipt of it.

In the case of Scheme 2 (construction scheme), it is considered that these properties will receive special benefit to varying degrees including special benefit in terms of:

- Provision of sealed all-weather access or improved access to the land including dust and mud reduction;
- Improved access including additional alternative access to and from Koo Wee Rup Road;
- Provision of reticulated water supply and / or sewerage services or improved access to those services;
- Access to or improved access to the electricity supply grid via an underground high voltage and low voltage supply and associated amenity benefits;
- Provision of street lighting and associated security and access improvements;
- Provision of proper drainage providing improved protection from flooding and / or ability to legally concentrate drainage discharges within approved limits without risk of litigation;
- Exemption from further contributions to Melbourne Water Corporation's Deep Creek South Drainage Scheme in the event of further development of the site;
- Provision of access to broadband telecommunications infrastructure (National Broadband Network);
- Provision of all services (reticulated water, sewerage, electricity and communications infrastructure, outfall and local drainage and fully constructed sealed roads) at more economical cost as part of a group scheme than if undertaken individually by any one landowner; and
- Improved amenity, economic development opportunities and property values.

Council is required to calculate the Benefit Ratio in accordance with Section 163 of the Local Government Act 1989 to determine the maximum proportion of the total project cost it may recover. This proportion of cost may not exceed the proportion of total benefits arising from the proposed works accruing to the properties to be levied. Consistent with the Benefit Ratio Calculation adopted in Council's resolution of the 20 January 2014 for Scheme 1 (design scheme), the reviewed calculation set out in Attachment 4 shows 100% of the benefits accruing to those properties to be levied. It is therefore proposed to levy those properties with the full cost of the works which is consistent with Council's policy for developers to service development of land at their own cost.

Contributions for the works have been assessed on a service by service basis. This involved the estimated costs of constructing each proposed infrastructure service (i.e. road, drainage, water, sewerage, electricity and telecommunications...etc.) being distributed between the properties receiving benefit, apportioned on the basis of area and weighted by a factor reflecting the improved development potential realised if this scheme proceeds. Consequently, contributions vary considerably depending on what services individual properties derive a benefit from, the property's size/portion of the property benefitting and its ease and ability to be developed separate to this scheme (it is not viable to develop some properties in isolation to this scheme due to the high initial cost of bringing services in). Apportioned costs are set out in Attachment 5 - Apportionment Table

together with a more detailed description of the apportionment methodology applied for each service provided to each property.

The O'Sullivan - Hill - Peet Street Industrial Area Special Charge Scheme No. 2 for construction of the required infrastructure is listed on the current Special Rate and Charge Scheme program with the anticipated commencement being in the 2017/2018 financial year.

This report is intended to initiate the statutory process for the Special Charge Scheme (Attachment 1) and seeks approval to issue the first statutory notice, 'Notice Of Intention to Declare a Special Charge' to commence the formalised consultative process. It follows extensive informal consultation with affected landowners since the design scheme commenced on May 2014

POLICY IMPLICATIONS

The proposed scheme has been developed in accordance with the provisions of the Local Government Act 1989, Cardinia Shire Council's Special Rate and Charge Scheme Policy and 5 year Special Rate and Charge Scheme Program which is based on community benefit, health, safety, amenity and landowner support.

In particular, this scheme is premised on installation of underground electricity in accordance with Council's policy for servicing of new industrial estates and provides for the full cost of this infrastructure to be met by the benefitting landowners. This reflects the commercial nature of the developments being serviced by this infrastructure and Council's policies providing for developers to meet the full cost of servicing their developments.

RELEVANCE TO COUNCIL PLAN

Development of Special Rate and Charge Schemes directly relates to the Council Plan goal of increasing the use of these schemes to finance road and drainage improvement programs. Additionally, the proposed special charge schemes for design and construction of infrastructure to service the O'Sullivan Road, Hill Street and Peet Street industrial area in Pakenham is referred to as a specific goal

CONSULTATION/COMMUNICATION

The O'Sullivan - Hill - Peet Street Industrial Area Special Charge Scheme No. 2 is listed on the current Special Rate and Charge Scheme program. It follows on from Special Charge Scheme No 1 - Design of Infrastructure to Service Hill, O'Sullivan and Peet Streets' Industrial Area, Pakenham declared in April 2014 which has been proceeding in close consultation with affected landowners to prepare designs and estimates of cost.

Questionnaire / surveys and meetings of landowners were conducted in 2007, 2008, 2010 and 2011 in the lead up to the design scheme. The formal consultation process to establish the design scheme was also conducted involving notification of landowners and seeking of submissions and objections.

Since commencing the design phase of the works in May 2014, four landowner meetings have been conducted to discuss both the design and proposed construction, at least four letters advising of progress have been issued and a survey of affected landowners was conducted to assess the levels of interest/support for the proposed construction scheme. This survey also provided preliminary estimates and apportioned costs to individual landowners. Numerous telephone inquiries seeking details of progress have also been responded to.

The landowner survey conducted in April 2016 seeking attitudes toward the construction scheme achieved the following responses:

	Support Construction Scheme	Oppose Construction Scheme	Nil Response	Total
Number of Titles	21	9	2	32
Percentage of Land Area	83.1%	16.1%	0.8%	32.6 Ha
Percentage of Levy	90.4%	9.5%	0.1%	100%

As evident in the table, there is a strong level of support amongst the landowners who own most of the land and would contribute most of the cost.

However, Council also needs to consider support from the number of rateable properties involved. The special charge legislation provides one right of objection per 'rateable property'. This will require further consideration at completion of the formal consultation phase of the scheme process. The level of support presented may also change following adjustments made to the initial draft distribution of costs in response to feedback from the survey and April 2016 landowner meeting.

The majority of those not in support are established properties along the Bald Hill Road portion of the scheme. The primary issues raised by landowners opposed to the scheme were:

- 1 Their inability to fund the contribution without detrimentally affecting existing businesses which are already operating satisfactorily with the existing Koo Wee Rup Road and Bald Hill Road infrastructure;
- 2 The landowners at the rear are really developers who can pass their costs on to purchasers of developed properties. Those landowners need the infrastructure, not the existing businesses and properties that are already developed.

The feedback received from landowners was duly considered and deemed to warrant a revision of the original cost distribution. It is now accepted the properties with existing access to Koo Wee Rup Road and Bald Hill Road will receive proportionately less benefit than the other properties; i.e. the other properties cannot be used or function without this infrastructure, whereas the properties with access to Koo Wee Rup Road and Bald Hill Road can and do. The revised distribution introduced a weighting to shift a proportion of the benefit and subsequently cost, toward those properties without access to Koo Wee Rup Road and Bald Hill Road and without utility services. The proposed scheme was subsequently amended to contain costs. Construction of kerb & channel in Bald Hill Road has been deleted in view of the need to widen Bald Hill Road in the future.

Overall it is considered revised apportionment provides a fair and reasonable allocation of costs relating to the scheme.

This report initiates the statutory process for the Special Charge Scheme by commencing the formalised consultative process through approving the issue of the first statutory notice, 'Notice Of Intention to Declare a Special Charge'. Property owners have 28 days to object and / or make written submissions to Council and may request a hearing before the Councillor Committee in support of their written submission. Following consideration of all submissions the Councillor

Committee will make a recommendation to Council regarding the construction scheme. Refer Attachment 1 - Scheme Process Chart.

FINANCIAL AND RESOURCE IMPLICATIONS

The estimated total project cost is \$10,298,824 wholly recoverable from the benefitting property owners as set out in the table in Attachment 3 - Apportionment Table.

As the project relates to capital works, Council is required to provide a plan whereby those levied may pay by instalments of principal and interest over at least four years. It is intended to have the major contributors responsible for most of the cost pay their contributions 'up front'. Additionally, the terms payment option, if requested, will be structured to recover 70% of landowner's contributions in the first year with the balance including interest repayable over the following three years. The interest rate provided for in the legislation is generally less attractive than if the landowners arrange their own financing. Overall this will reduce the financing demands on Council to very manageable levels.

CONCLUSION

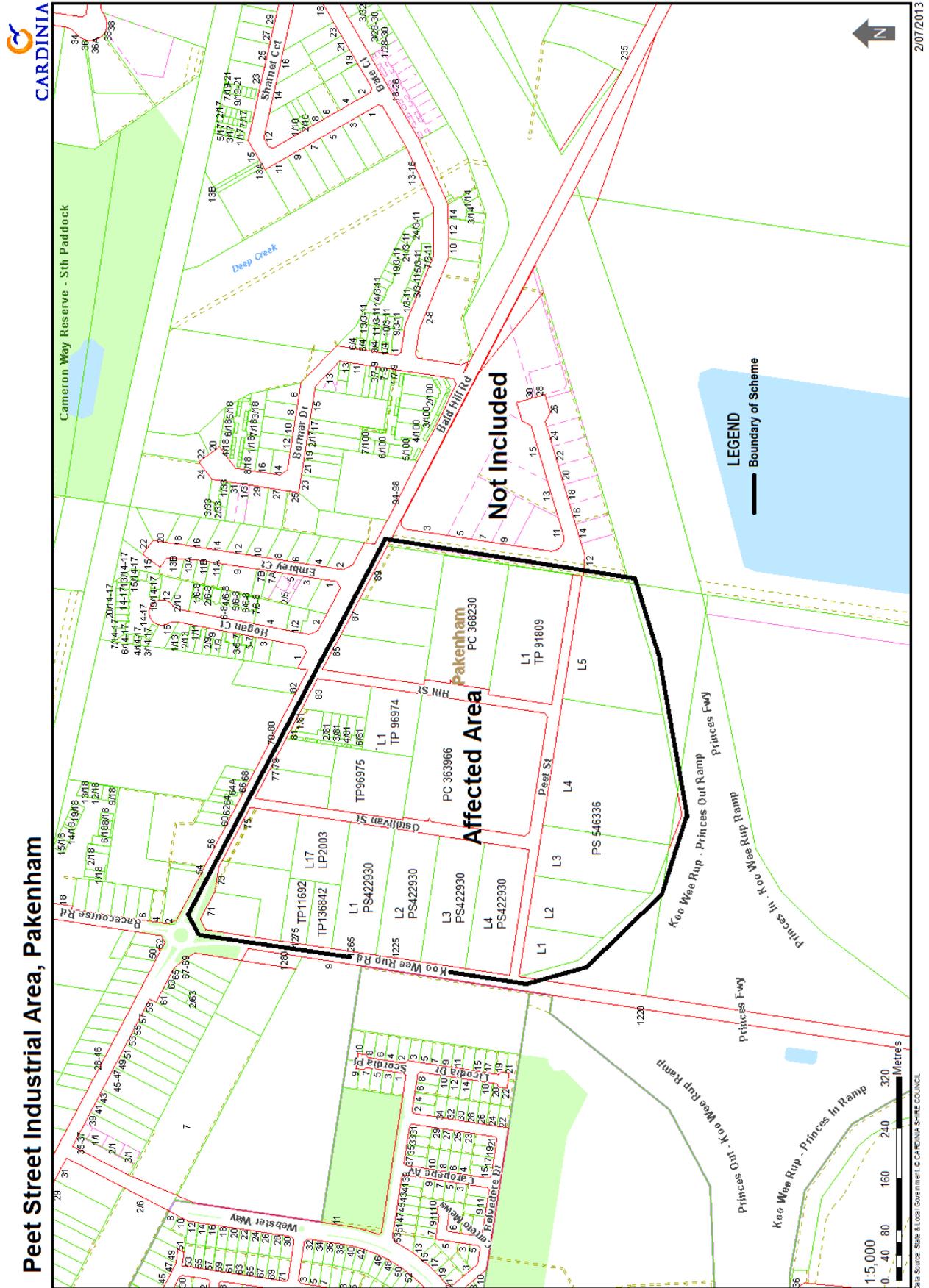
The Peet, Hill and O'Sullivan Streets industrial area is unable to be developed by the landowners acting alone and continues to project a poor image to the gateway to Pakenham. Affected landowners have sought Council intervention to facilitate its development and Council possesses special rate and charge powers that may be exercised to properly service this area and share the cost of that servicing fairly amongst all benefitting landowners. Designs and estimates of cost have been prepared under a separate special charge scheme so that the extent of works, associated costs and a proposed cost sharing arrangement is now available. The recent landowner also shows a good level of support for a Council managed construction scheme. It is therefore concluded Council possesses sufficient information and landowner support to commence the formal consultation process with affected landowners to commence implementing a special charge scheme to fund construction of these works.

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 feed back 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 at least 28 days' time and seeks submissions from affected property owners. It may also advise of landowner's rights to object to the scheme. 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 Council intends 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 committee of councillors or whole Council) and meets to consider submissions. Some submissions are written only. Submitters may also request to be heard before the Panel. 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>	<u>Alternatively</u> 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 30 days 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>Construction</i>	Council may then proceed to construction. Tenders are invited and a contractor appointed to construct 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 works the scheme is "finalised" taking into account actual costs incurred and payments are adjusted accordingly.

ATTACHMENT 2 – PLAN OF SCHEME AREA



ATTACHMENT 3 –ESTIMATED COST AND DESCRIPTION OF WORKS

COST ESTIMATE FOR CONSTRUCTION OF INFRASTRUCTURE TO SERVICE O’SULLIVAN – HILL – PEET STREETS INDUSTRIAL AREA, PAKENHAM

The works comprise adjustment of the engineering survey and design plans, obtaining associated authority approvals, acquisition of land and construction of works necessary to service the industrial area generally bounded by Bald Hill Road, Koo Wee Rup Road, Pakenham Bypass and Rapid Way as contained within the heavy black line of the Plan in Attachment 2. Works include:

- Widening and construction of O’Sullivan Street, Hill Street and Peet Street to Cardinia Shire industrial road standards including land acquisition, bulk earthworks, pavement, seal, kerb & channel and road drainage;
- Partial construction of the Bald Hill Road intersections with Hill and O’Sullivan Streets;
- Land acquisition and construction of a ‘left in - left out’ intersection treatment of Peet Street where it intersects Koo Wee Rup Road and associated short length of Koo Wee Rup Road service road associated with that intersection;
- Outfall Drainage to service the area in accordance with Melbourne Water’s Deep Creek South Drainage Scheme including easement acquisition, and underground and surface drainage works; and
- Water supply, sewerage, electricity, gas and telecommunications infrastructure;
- Preparation of contract documentation and ‘as-constructed’ plans and documents; and
- Provision of all associated supervision, administration and legal advice all as included in the cost estimate shown below:

Note – Estimate and Project excludes filling of adjoining lots to approved surface profile.

Summary of Engineer’s Estimate		
Item	Description	Amount
1	Construction of road works in O’Sullivan Street, Hill Street and Peet Streets including Bald Hill Road intersections and Koo Wee Rup Road service road and intersection with Peet Street and all associated pavements, street drainage, site filling, land acquisition and service adjustments.	\$4,639,605
2	Construction of sewerage infrastructure to provide a sewerage connection point to all existing unserviced lots including payment of associated authority fees with that infrastructure being capable of servicing further subdivision of all lots that it services.	\$519,212
3	Construction and connection of reticulated water supply infrastructure in Peet, O’Sullivan and Hill Streets including associated 20mm tapping and authority fees to provide potable water supply to each existing unserviced lot that is capable of servicing further subdivision of all lots to which it abuts.	\$276,090
4	Construction of underground electrical infrastructure including street lighting, connections to existing overhead mains to ensure appropriate electrical connection points are	\$1,385,200

	available to service and to cater for reasonable development of existing lots.	
5	Construction of Deep Creek South Drainage Scheme drainage infrastructure to Melbourne Water Corporation standards to service the existing lots including payment of all outstanding Melbourne Water Corporation outfall fees.	\$3,082,210
6	Construction of National Broadband Network (NBN) capable telecommunications pits and conduits and payment of associated infrastructure fees to enable NBN connection to service all existing lots.	\$145,317
	Works Subtotal	\$10,047,634
9	Project management, administration, design review and authority approvals @ 2.5%	\$251,189.95.
	Total Project Cost	\$10,298,823.95

ATTACHMENT 4 –BENEFIT RATIO CALCULATION

Calculation in accordance with Section 163 of Local Government Act 1989 and Minister's Guidelines

Purpose: To improve and provide basic services including roads, water supply, sewerage, electrical and drainage infrastructure and to provide access and improve the amenity of industrial lots in the subject area through reduced mud and dust etc by construction of infrastructure in O'Sullivan, Hill and Peet Streets and creation of a short length of service road in Koo Wee Rup Rd in conjunction with construction of the Koo Wee Rup Road / Peet Street intersection. The subject area being the industrial area bounded by the heavy black line on the Plan contained in Attachment 2.

Peet, O'Sullivan, and Hill Streets are local access streets shown on and created by an old plan of subdivision relating to Crown Allotment 32 Parish of Nar Nar Goon. These streets provide legal rights of access and servicing only to those properties shown on that plan of subdivision and their subsequent 'children' titles. They service no other properties and are presently legally and physically isolated from Rapid Way to the west by a reserve. Presently these streets are unconstructed and partly or totally unused. The two lots abutting Koo Wee Rup Road immediately north of Peet Street do not enjoy access from Koo Wee Rup Road which is a VicRoads controlled access road. VicRoads will not permit these two lots to obtain direct access to Koo Wee Rup Road other than via a service road which will also form part of the Peet Street – Koo Wee Rup Road intersection treatment.

The lots contained within the heavy black line on the Plan contained in Attachment 2 are partly or totally unserviced with appropriate infrastructure. The section of Koo Wee Rup Road and the Bald Hill Road intersection treatments proposed for construction are only for the purpose of servicing and improving the amenity and safety of access to the lots contained within the heavy black lines.

Coherence: The proposed works and services are physically connected and form a continuous service route to abutting properties.

Special Beneficiaries: A "special benefit" is considered to be provided to a property if the proposed works will provide a benefit that is additional or greater than the benefit to other properties. Consistent with the Minister's Guidelines, Special Benefit is considered to accrue in two ways:

1. Improved access and amenity which includes improved ability to access a property, improved safety, reduced vehicle operating costs, proper drainage, lessened mud and dust, improved appearance and ease of maintenance and possibly increased property values, and
2. Improved development potential in terms of increased service provision including supply of improved electricity, communications, drainage, water supply and /or sewerage services, and reduced costs of developing the sites.

Accrual of Benefit Units:

Special benefits by way of improved access and amenity and improved development potential only accrue to lots within the heavy black line on the Plan in Attachment 2. All of these lots are in private ownership and are to be levied with the proposed special charge.

The fully developed estate to the east (Rapid way Estate) enjoys no legal right of access to this group of streets and associated services and has been fully serviced as part of its own development. It will not accrue any special benefit as a result of construction of these works. Land in this neighbouring development may derive a benefit in the future if the two roads are ultimately connected but that benefit, if it does eventuate, will result from a future decision affecting legal rights of access and has nothing to do with design of infrastructure funded by this special charge

There are therefore no special benefits accruing to properties excluded from the proposed special charge.

Community Benefits

The works only provide benefit to the properties being serviced with the proposed infrastructure and these benefits include works to extend a duty of care owed by those properties to the travelling public along Koo Wee Rup Road and Bald Hill Road as a result of development of these properties.

Any benefits to the wider community are considered to be very minimal and incidental to the primary purpose of this scheme and may therefore be ignored. It is therefore considered there are no community benefits arising from these proposed works.

Benefit Ratio Calculation:

$$\text{Benefit Ratio} = (\text{SB In}) / (\text{SB In} + \text{SB Out} + \text{CB})$$

Where:

SB In = Special Benefit accruing to properties within the scheme area to be levied,

SB Out = Special Benefit accruing to properties exempted from the scheme; and

CB = total Community Benefit.

As all properties accruing special benefits are to be levied and there are no community benefits or special benefits accruing to properties exempted from the special charge, the **Benefit Ratio equals one**. i.e. **Council may recover up to 100% of the cost by the special charge.**

ATTACHMENT 5 – APPORTIONMENT TABLE

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

Column 1	Column 2	Column 3	Column 4
<i>Assessment Number</i>	<i>Property Address</i>	<i>Legal Description</i>	<i>Amount</i>
3054055700	89 Bald Hill Rd	PC367126 V9428 F518	24,568.00
3054055600	87 Bald Hill Rd	L1 TP89403	41,355.72
3054055500	85 Bald Hill Rd	L1 TP96973	103,619.80
3054055300	83 Bald Hill Rd	L1 TP205373	69,429.92
5000005468	6/81 Bald Hill Rd	L6 PS616168 V11096 F585	410.00
5000005467	5/81 Bald Hill Rd	L5 PS616168 V11096 F584	410.00
5000005466	4/81 Bald Hill Rd	L4 PS616168 V11096 F583	410.00
5000005465	3/81 Bald Hill Rd	L3 PS616168 V11096 F582	410.00
5000005464	2/81 Bald Hill Rd	L2 PS616168 V11096 F581	410.00
5000005463	1/81 Bald Hill Rd	L1 PS616168 V11096 F580	410.00
3054055100	79 Bald Hill Rd	L1 TP710933	41,671.95
3054055100	77 Bald Hill Rd	L1 TP709856	88,222.88
3054055100	Rear 77-79 Bald Hill Rd	L1 TP96975	500,405.22
3054054400	FY 1/75 Bald Hill Rd	CP170066	17,498.47
3054054500	FY 2/75 Bald Hill Rd	CP170066	8,602.72
3054054600	FY 3/75 Bald Hill Rd	CP170066	8,602.72
3054054700	FY 4/75 Bald Hill Rd	CP170066	6,718.91
3054054800	FY 5/75 Bald Hill Rd	CP170066	6,718.91
3054054900	FY 6/75 Bald Hill Rd	CP170066	8,477.13
3054055000	FY 7/75 Bald Hill Rd	CP170066	11,302.84
3054054200	73 Bald Hill Rd	CP166554	34,695.73
3054054100	71 Bald Hill Rd	L1 TP867555	23,118.48
3640850100	17 O`Sullivan St	L17 LP2003 Parish of Nar-Nar-Goon	131,772.73
4465354300	1275 Koo Wee Rup Rd	L1 TP111692 V9697 F635	35,659.82
4465354112	FY 1/1265 Koo Wee Rup Rd	PT L1 PS422928	53,224.68
4465354111	FY 2/1265 Koo Wee Rup Rd	PT L1 PS422928	34,107.24
5000005122	FY 3/1265 Koo Wee Rup Rd	PT L1 PS422928	31,065.83
4465354114	FY 4/1265 Koo Wee Rup Rd	PT L1 PS422928	53,224.68
4465354117	FY 5/1265 Koo Wee Rup Rd	PT L1 PS422928	34,107.24
5000005123	FY 6/1265 Koo Wee Rup Rd	PT L1 PS422928	31,065.83
4465354200	Koo Wee Rup Rd	L1 TP136842	41,558.75
4465354120	1225 Koo Wee Rup Rd	L2 PS422929 V10439 F358	241,866.80
4465354130	Lot 3 Koo Wee Rup Rd	L3 PS422930 V10439 F359	477,735.85
4465354140	Lot 4 Koo Wee Rup Rd	L4 PS422930 V10439 F360	660,326.47
5000003279	Lot 1 Peet St	L1 PS546336	302,960.16
5000003280	Lot 2 Peet St	L2 PS546336	473,857.15
5000003281	Lot 3 Peet St	L3 PS546336	560,551.20
5000003282	Lot 4 Peet St	L4 PS546336	1,369,512.29
5000020672	Lot 5 Peet St	L5 PS546336	998,504.32
4680400100	Peet St	PC363966	1,881,570.88
3394200200	Hill St	L1 TP91809	807,332.12
5000001830	Hill St	PC368230	724,646.70
3054055400	Bald Hill Rd (Hill St)	L1 TP96974	356,703.79
Total			10,298,823.95

Detailed Description of Apportionment Methodology

Road Construction:

20% of the estimated construction cost is distributed in proportion to the area considered to benefit from the road construction works;

80% of the estimated construction cost is distributed in proportion to the lot's 'apportionable length of abuttal' comprising the front, rear and 30% of the side length of abuttal considered to benefit from the road construction works; and

The resulting sum of costs for each particular property being weighted by a factor reflecting the development potential considered to be released to that property by this scheme proceeding

Drainage:

80% of the estimated construction and Melbourne Water Corporation outfall charge costs being distributed in proportion to the combined areas of the lot receiving protection and discharge benefits; and

20% of the estimated construction and Melbourne Water Corporation outfall charge costs being distributed in proportion to the area of the lot considered to be in receipt of additional development potential released by this scheme proceeding.

Electrical, Communications, Water Supply and Sewerage Services

All of the estimated cost of providing each service including supply authority fees being distributed in proportion to the area of each lot deemed to benefit from that service weighted by a factor reflecting the development potential considered to be released to that property by this scheme proceeding.

Further Note:

Costs distributed to parent allotment on above basis and then further distributed to component assessments based on unit liabilities within the plan of subdivision where common property subdivision involved or in the case of non-subdivided assessments in proportion to the area of each rating assessment making up the parent title in the knowledge the land owner is ultimately responsible for the charge.

ATTACHMENT 6 – PROPOSED SPECIAL CHARGE DECLARATION

That a special charge in accordance with Section 163 of the Local Government Act, 1989 (‘the Act’) be declared as follows:

- a) A special charge is declared for a period until the works have been completed and the scheme finalised.
- b) The special charge be declared for the purposes of defraying any expenses incurred by Council in relation to the construction, project management, administration, survey, review of engineering designs, land acquisition, authority approvals and charges for provision of infrastructure services to the properties enclosed by bold black line on the Plan including construction of:
 - Hill, O’Sullivan and Peet Streets and Koo Wee Rup Road service road and associated intersections including engineered fill, pavements, kerb & channel, underground drainage and seal;
 - The Peet Street - Koo Wee Rup Road intersection to VicRoads design requirements;
 - Drainage services compliant with Melbourne Water’s Deep Creek South Drainage Scheme;
 - Electricity supply;
 - Reticulated water supply and sewerage compliant with South East Water’s servicing requirements;
 - Reticulated gas and telecommunications supply infrastructure; and
 - Associated ancillary works;

as described in Attachment 3 of this report, the works Council considers is, or will be of special benefit to those persons required to pay the special charge (and who are described in succeeding parts of this resolution).

- c) The special benefit accruing to those properties to be levied is considered to include:
 - Improved drainage including provision of legal points of discharge and lessened flooding of properties;
 - Improved access including sealed all-weather access, lessened mud, dust, and potential vehicle damage;
 - Improved access to utility services including electrical, water supply, sewerage services and / or communications;
 - Increased subdivisional and development opportunity for all properties to be levied;
- d) The following be specified as the area for which the special charge is declared;
 - all those properties described in Attachment 5 of this report and shown enclosed by the bold black line on the attached Plan. (Attachment 2 of this report).
- e) The following be specified as the land in relation to which the special charge is so declared;
 - all properties described in Attachment 5 of this declaration.
- f) The following be specified as the criteria which form the basis of the special charge so declared;
 - those properties fronting, abutting, adjacent or capable of being serviced by the works;
- g) The following be specified as the manner in which the special charge so declared will be assessed and levied;
 - Costs for each property shall be apportioned on the basis of:
 - The relative development potential considered to be released by this scheme proceeding comprising a factor of 1.0 where a property is considered to be already sufficiently serviced with road access, water, sewerage and electrical services to be developed in isolation or a factor of 2.0 where that is considered not to be the case;
 - The estimated cost attributable to the construction of each type of

infrastructure;

- The extent to which each property is considered to be serviced by each type of new infrastructure;
- The area of each property;
- The 'apportionable length of abuttal' to the new road comprising length of frontage and rear abuttal and 30% of any side abuttal;

With the cost of providing each type of infrastructure being distributed to the relevant properties in proportion to:

- i) Road Construction – the estimated construction cost apportioned 20% in proportion to area and 80% in proportion to the apportionable length of abuttal with the area and apportionable length of abuttal weighted by the relevant development potential factor;
- ii) Water Supply, Sewerage, Electrical and Communications Services – the estimated cost of providing each service being separately distributed in proportion to the area of each lot deemed to benefit from that service weighted by the relevant development potential factor;
- iii) Drainage – the estimated construction and outfall fee costs being distributed 80% in proportion to the sum of the approximate area of the lot receiving discharge benefits and approximate area of the lot receiving protection benefits from the works and 20% in proportion to the area of lots attracting a development potential factor of 2.0 units;

- the special charge will be levied by sending a notice to the person who is liable to pay, pursuant to section 163 (4) of the Local Government Act 1989.

- h) The total cost of the works is the amount shown in Attachment 3 of this report estimated at \$10,298,823.95.
- i) The total amount of the special charge to be levied is the amount shown in Attachment 5 of this report estimated at \$10,298,823.95.
- j) Having regard to the preceding parts of this resolution but subject to Sections 166 (1) and 167(6) of the Local Government Act 1989, it be recorded that;
 - i) the owners of the land described in columns 1, 2 and 3 of the table in Attachment 5 are estimated liable for the respective amounts set out in column 4 of the table; and
 - ii) such owners may, subject to any further resolution of Council pay the special charge in the following manner.
 - a. The charge will become due and payable within one month of the issue of the notice requesting payment pursuant to Section 167 (3) of the Local Government Act 1989.
 - b. The charge may be paid by:
 - lump sum within one month after the issue of the notice without incurring interest, or
 - installments of principal and interest over a period of four years comprising:
 - Year 1 – Four equal quarterly instalments of principal and interest calculated to repay 70% of the special charge including accumulated interest;
 - Years 2 to 4 – Quarterly instalments of principal and interest to repay the outstanding balance;
 - c. Interest will not be charged for three months after the issue of the notice provided the person liable makes timely payment in accordance with the repayment arrangements that may be agreed on by Council.
 - d. In accordance with Sections 167(6)(b) and 172 of the Act, the rate of interest which is payable on instalments is set at the 180 day dealer bill rate as published in the Australian Financial Review plus 3.3 percent which is considered to be equal to Council's borrowing rate plus one percent and reviewed every three months (provided that it shall not exceed the rate fixed by the Governor in Council by Order for the purposes of Section 172 (2A) in which case the rate of interest shall be the maximum rate fixed by the Governor in Council by Order for the purposes of this section).

- k) There are no incentives for prompt payment, rebates or concessions associated with this special charge.

ATTACHMENT 7 – PUBLIC NOTICE**Cardinia Shire Council****Notice of intention to levy a Special Charge to Fund Construction of Infrastructure to Service the Hill, O'Sullivan, and Peet Streets Industrial Area, Pakenham**

Notice is hereby given that Cardinia Shire Council (the Council) intends to consider a resolution to declare a special charge at its 16 May 2017 meeting for the purposes of defraying any expenses incurred by Council in relation to adjustment of engineering design plans, obtaining authority approvals, acquisition of land and construction of works to service the industrial area generally bounded by Bald Hill Road, Koo Wee Rup Road, the Pakenham Bypass and Rapid Way Pakenham including construction of O'Sullivan, Hill and Peet Streets, their intersections with Bald Hill Road and Koo Wee Rup Road and a length of service road in Koo Wee Rup Road adjacent the Peet Street intersection with pavement seal, kerb & channel and underground drainage, construction of outfall drainage to service the area in accordance with the Melbourne Water Corporation Deep Creek South Drainage Scheme and construction of sewerage, water supply, underground electricity and telecommunications infrastructure including associated authority headworks, outfall and connection fees and charges.

The proposed Special Charge affects those properties Council considers receive a special benefit from the proposed works comprising the properties generally bounded by Bald Hill Road, Koo Wee Rup Road, the Pakenham Bypass and Rapid Way, Pakenham. Affected property owners are those with property abutting or capable of being serviced by the proposed infrastructure works.

In accordance with Section 163 of the Local Government Act 1989, a copy of the proposed declaration together with details of the proposed scheme including plans, estimates of cost and apportionments may be inspected at the Cardinia Shire Offices, 20 Siding Avenue, Officer during office hours for at least 28 days after the date of this notice.

The estimated total cost of the project is \$10,298,823.95.

The total amount of the special charge proposed to be levied by the Council based on the estimated cost is \$10,298,823.95.

The proposed declaration distributes the charges between property owners on the basis of:

- The relative development potential considered to be released by this scheme proceeding for each particular property;
- The estimated cost attributable to the construction of each type of infrastructure;
- The extent to which each property is serviced by each type of infrastructure; and
- The area and length of abuttal of each property;

With the estimated cost of constructing each type of infrastructure being apportioned to the relevant properties in proportion to the area and abuttal considered to benefit weighted by the relative development potential considered to be released by this scheme proceeding for each property all as set out in the detailed apportionment.

Payment may be made by lump sum or by quarterly instalments of principal and interest over a period of four years structured to recoup 70% of the capital cost in the first year and the remainder over the ensuing three years. The notice requesting payment would normally be forwarded within one month of Council entering into a contract for construction of the proposed works.

The special charge will remain in force until all payments have been completed and the scheme finalised.

TAKE NOTICE:

- That a person may make a submission pursuant Section 163A of the Act and it will be considered in accordance with Section 223 of the Act. A person may also request to be heard in support of their written submission by making that request in writing.

- A person required to pay the special charge levied by the proposed declaration may also object pursuant Section 163B of the Act concerning Council making the proposed declaration by lodging a written objection.
- Submissions and objections are to be made to the Council and must be lodged in writing within 28 days of the publication of this notice with the General Manager Assets and Services, Cardinia Shire Council, 7 Siding Avenue, Officer or by post to PO Box 7, Pakenham 3810

A Committee of Councillors will be convened to hear submissions. Further advice will be provided on the date of the hearing. Letters and information will be mailed to the owners of the affected properties. You should contact Brian Allan, Development Project Engineer, Cardinia Shire Council on 5945 4356 if you do not receive this letter within the next few days.