8.6 Links Street - Intent to Declare a Special Charge Scheme

Division	**Future Places**
Council Plan Strategic Objective	**Our Places** *Strengthening the connection between people and the public places they share*

Declaration

The author has no general or material interests in relation to this report.

Summary

The purpose of this report is to present a preferred concept option and funding mechanism for a road and drainage upgrade project along Links Street, Surf Beach.

- At the February 2024 Council meeting, a petition was received from property owners requesting a road and drainage upgrade project.
- At the June 2024 Council meeting, Council resolved to proceed with the initiation of the upgrade project.
- In July 2024, Council officers engaged with property owners to understand their preferred concept option.

It is recommended that, in accordance with the Proposed Declaration of Special Charge (Attachment AT-4), Council give public and other statutory notice of its intention to declare a special charge scheme for the upgrade of road and drainage infrastructure along Links Street, Surf Beach.
The recommendation, if adopted by Council, signifies the start of the special charge scheme process in accordance with the requirements of the Local Government Act 1989 (Act). This will enable Council to formally ascertain the level of support and/or objection through the written submissions and/or objections process in accordance with the legislated requirements of the Act.

Recommendation

That Council:

1. **Adopts the concept option as shown in Attachment AT-1 as the preferred design option.**
2. **Commences the statutory process under section 163 of the *Local Government Act 1989* (Act) to declare at the 15 October 2025 Council Meeting a Special Charge for the purpose of defraying the expenses and costs to be incurred by Council in relation to the construction and improvement of roads and drainage of Links Street to be known as the 'Links Street Road and Drainage Upgrade Project' (Special Charge Scheme).**

3. **In accordance with sections 163(1A) and 163B(3) of the Act, directs that public notice be given in the 'South Gippsland Sentinel Times' and the 'Phillip Island and San Remo Advertiser' of the Council's intention to declare at the 15 October 2025 Council Meeting a Special Charge in the form of the attachment to this resolution (Proposed Declaration of Special Charge) (Attachment AT-4, including Schedule 1 and Schedule 2, and also the statement pursuant to sections 163(2)(a), (2A) and (2B) of the Act (Benefit Ratio Statement (Attachment AT-2)), such Special Charge to be as detailed in the Proposed Declaration of Special Charge, for the purposes set out at paragraph 1 thereof.**
4. **Further directs that, in accordance with section 163(1C) of the Act, separate letters enclosing a copy of the public notice be sent to the owners of the properties referred to and set out in Schedule 2 to the Proposed Declaration of Special Charge advising of the Council's intention to declare the Special Charge at the 15 October 2025 Council Meeting, the amount for which each property owner will be liable, the basis of the calculation and distribution of the Special Charge and notifying such persons that any written submissions and/or objections in relation to the Proposed Declaration of Special Charge must be received by 20 August 2025 and will be considered and/or taken into account by Council in accordance with sections 163A, 163B and 223 of the Act.**
5. **Establishes and appoints a Committee, under section 223(1)(b)(i) of the Act, comprising the Mayor and the three Island Ward Councillors, to hear any persons who have requested to be heard in support of their submissions.**
6. **Authorises the Council's General Manager Future Places (or any person for the time being acting in that position) to carry out any and all other administrative procedures to enable Council to carry out its functions under sections 163(1A), (1B) and (1C), 163A, 163B and 223 of the Act.**

Background

Council's Urban Roads and Drainage Improvement (URDI) Policy 2024 provides a framework for future upgrades to areas across Council with unconstructed streets and inadequate drainage.
The funding mechanism for these types of upgrades shall be adopted through Council resolution. Funding sources may include:

- direct Council contribution;
- external grants, funding or contributions;
- a special rate or charge in accordance with section 163 of the Act; and/or
- a combination of the above.

The special charge provisions allow for costs to be equitably attributed to those who receive a special benefit. There are many road and drainage improvement projects across the Shire, and these will take decades to develop, fund and construct. A priority list has been developed so that designated improvement project areas can be developed in a manner that aligns with the current objectives of the Council Plan 2021-2025 and Council's Asset Plan 2022.
Council will consider reprioritising and/or redefining a road and drainage improvement project if there is strong support from the community. The minimum community support required for a project to be reprioritised/redefined is 50 percent or greater from the affected property owners. This should be in the form of a petition signed by affected property owners and presented to Council for consideration. The petition is required to state that the affected property owners would like a road and/or drainage project undertaken, and that they are willing to financially contribute towards the project in accordance with the URDI Policy 2024.
At the February 2024 Council meeting, Council received a petition from property owners requesting a road and drainage upgrade project for Links Street, Surf Beach.
At the June 2024 Council meeting, Council resolved to:

1. Proceed with the initiation of the upgrade project at Links Street, Surf Beach.
2. Note that the preferred concept designs and funding mechanism for a potential upgrade project would need to be considered at a future meeting of Council.
3. Advise the head petitioners of Council's decision.

In the development of the preferred design option, Council has undertaken deliberative community engagement with residents to identify any problems and to prepare a concept plan to resolve any issues. Between 31 July 2024 and 28 August 2024, Council officers engaged with affected property owners on a range of concept options and costs, so that a preferred option from the community was understood.

Discussion

Apportionment of costs

Council must determine the 'Maximum Total Amount' that may be levied on landowners in accordance with the Act. This is calculated using a Benefit Ratio. The 'Benefit Ratio Statement' (Attachment AT-2) provides a full description about how the benefit ratio has been calculated and the basis on which it is being recommended to Council.
The distribution of all leviable costs ('Maximum Total Levy') to property owners is calculated based on:

- Road component distribution of costs –
  - 75% sharing costs equally
  - 25% distributing costs based on frontage and side boundaries.
- Drainage component distribution of costs –
  - 100% distributing costs based on area.

A full description of the apportionment method, including where discounts for various considerations are applied is included in the Apportionment and Distribution Statement (Attachment AT-3).
This apportionment methodology is considered to be the fairest and most appropriate and reasonable amongst all the apportionment options considered by Council.

Payment Options for Landowners

The total estimated project cost for the preferred concept option (Attachment AT-1) of the Links Street Road and Drainage Upgrade Scheme is $338,299. After deduction of the amounts to be paid by Council, the Maximum Total Levy amount that can be charged to all landowners who will receive a special benefit from the works is calculated to be $261,911.
The contribution to the cost of the proposed scheme for each individual property included in the scheme is estimated to be between $11,421.45 and $27,298.14.
The Act makes provision for Council to determine the payment options for a scheme that best suits the project. It requires, as a minimum, that Council offer payment by:

- lump sum, with payment to be due at least 28 days after the date of issue of a levy notice; or
- payment plan, with quarterly repayments over a minimum period of four years.

In relation to this special charge scheme proceeding, the following payment options would be offered:

- Payment Option 1: Lump Sum Payment – upfront payment of the Special Charge in full within 30 days of the date of issue of an invoice, with a 5% discount and no interest.
- Payment Option 2: Lump Sum Payment – upfront payment of the Special Charge in full within 90 days of the date of issue of an invoice, with no discount and no interest.
- Payment Option 3: Instalment Payment Plan – payment of the Special Charge in 40 quarterly instalments over 10 years, with interest. Interest will be charged on the reducing balance of the principal each quarter at the rate of 1% above the estimated borrowing costs of the Council. If a ratepayer is late with payment of an instalment, penalty interest will be charged on the balance of principal due each quarter.
- Payment Option 4: Hardship Payment Plan - A payment plan, extended beyond 10 years to a maximum of 20 years, tailored to the individual needs of the ratepayer upon receipt of a completed Financial Hardship Application Form. This option is subject to the Council assessing the property owner as experiencing financial hardship, in accordance with the Council's Hardship and Financial Hardship Policy. Interest will be charged on the reducing balance of the principal each quarter up to the maximum rate of 1% above the estimated borrowing costs of the Council.

The first invoice to property owners would list the four payment options. A property owner can then elect a payment option by ensuring that Council receives payment for that option by the relevant due date. If property owners do not elect a payment option by the relevant date, then Payment Option 3 will be the default option. This will be clearly stated on the first invoice (being the levy notice for the Special Charge).

Council has a Debt Management Policy and a Hardship and Financial Hardship Policy. Council's Policies are available to help those ratepayers who may experience financial hardship from the imposition of a scheme. Property owners having difficulty paying are encouraged to contact Council's revenue service team and confidentially discuss payment options that take into account their current situation. Property owners who reside in the affected property and whose only form of income is a government pension may qualify for hardship assistance.

Calculation of Council's estimated borrowing costs

Section 167(6)(b) of the Act states that Council:

"may include in the amount of an instalment a component for reasonable interest costs the total of which must not exceed the estimated borrowing costs of the Council in respect of the performance of the function or the exercise of the power in respect of which the special rate or special charge is to be levied by more than 1%"

For example, if the rate at which Council would be able to obtain funds from its bank is 6%, then the interest rate charged to those landowners who opt for Payment Option 3 or 4 would be no more than 7%. In this case, it is proposed that the interest be charged at the rate of 1% above Council's estimated borrowing costs.

Sustainability Implications

The proposed concept design provides a balance between minimising the funding implications, improving road safety, reducing risk of flooding, improving amenity and minimising impacts on the environment.

Finances

The estimated costs of the concept design option which was adopted by Council for the upgrade of roads and drainage along Links Street, Surf Beach are as follows.

	Council Adopted Design Option
Total Project Cost	$338,299
Total Scheme Cost	$338,299
Maximum Total Levy to be recovered from Property Owners	$261,911
Council Contribution to Scheme Cost	$76,388
Total Council Contribution	$76,388

As shown above, Council's contribution to the project would be $76,388.

The total project cost of $338,299 allows for construction to commence in 2026-27. The current expenditure to date for the investigation, survey, geotechnical investigations, planning, consultation, design, and estimates is outlined in the table below.

Financial Year	Expenditure
2025/26	$40,000
2026/27	$298,299

Previous investigation, planning and design work on the overall estate road and drainage improvement project, which was abandoned in December 2023, has provided the necessary details so that this project could be cost estimated without further costs for Council.
The remaining Council contribution to be made for this upcoming project, should the special charge scheme proceed, is $76,388. This is consistent with Council's Long Term Financial Plan as there was considerable allowance for the road and drainage improvement projects in accordance with the URDI Policy 2024.
Actual costs for the entire project can be determined once construction of the project is completed and after a subsequent 12-month defects liability period. Section 165 of the Act provides that if Council receives more money than it requires from a special charge, it must make a refund proportionate to the contributions received from the current owners of the relevant land. Should actual costs exceed estimated costs, Council may decide to recover the additional costs. However, should Council decide to pass on these extra costs to abutting property owners, any potential increase will be limited to a maximum of 10%.

Stakeholders

There are various stakeholders that would need to be considered as part of any potential road and drainage upgrade of Links Street, Surf Beach.
There are 12 properties which would receive a special benefit from this road and drainage upgrade if it was undertaken.
Other key stakeholders include:

- Property owners in the area that may get an indirect benefit;
- Other Bass Coast Shire ratepayers;
- Visitors to the area;
- Phillip Island Nature Parks;
- Bass Coast Shire Council;
- Western Port Water;

- The Department of Transport and Planning (formerly VicRoads);
- Ausnet Services; and
- Telecommunications service providers.

Council, in accordance with its deliberative engagement procedures, has consulted with key stakeholders throughout the development of this road and drainage improvement project.

Conclusion

Community engagement has been undertaken with the property owners along Links Street, Surf Beach. This has resulted in a clear preference from those who engaged to develop a preferred concept plan.
It is recommended that the preferred concept plan be adopted for any future road and drainage upgrade along Links Street, Surf Beach.
It is also recommended that Council proceed to commence the formal statutory scheme process by resolving to issue a public notice of its intention to declare a special charge scheme for the purpose of improving road and drainage infrastructure along Links Street, Surf Beach in accordance with the Proposed Declaration of Special Charge (Attachment AT-4).

Governing Documents

There are 9 governing documents listed below that are related to this proposed upgrade project and detailed in Attachment AT-5.

- Local Government Act 1989
- Local Government Act 2020
- Council Plan 2021-25
- Bass Coast Planning Scheme
- Asset Management Policy 2022-2026
- Urban Roads and Drainage Improvement Policy 2024
- Debt Management Policy
- Hardship and Financial Hardship Policy
- Long-Term Financial Plan 2021-2031

Attachments

1. A T-1 Concept Plan [**8.6.1** - 1 page]
2. A T-2 Benefit Ratio [**8.6.2** - 14 pages]
3. A T-3 Apportionment and Distribution Statement [**8.6.3** - 17 pages]
4. AT 4 Schedules 1 and 2 [**8.6.4** - 2 pages]
5. A T-4 Proposed Declaration of Special Charge [**8.6.5** - 3 pages]
6. AT 5 Governing Documents [**8.6.6** - 7 pages]

CONCEPT PLAN FOR LINKS STREET SURF BEACH

OPTION 4

SUNDERLAND BAY ROAD

SEAVIEW CRESCENT

LINKS STREET

THE ESPLANADE

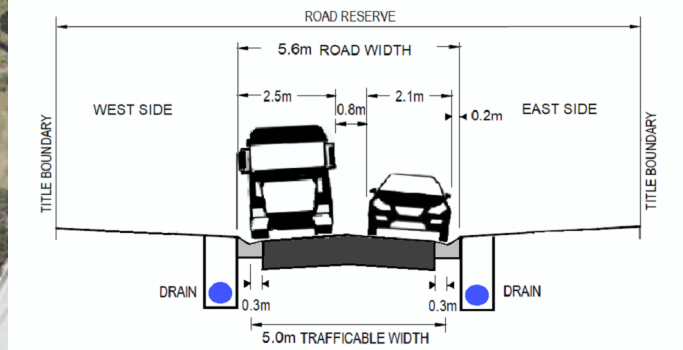
2
4
6
8
10
12
1
3
5
7
9
7A

5.0M TRAFFICABLE WIDTH (KERB & CHANNEL)

CONNECT TO THE ESPLANADE 375MM DRAINAGE PIPE

<u>COLOUR PALETTE</u>
ROAD (ASPHALT)
KERB (GREY CONCRETE)





TYPICAL SECTION
(KERB & CHANNEL)

0 10 20 m

Benefit Ratio Statement

Links Street, Surf Beach
Special Charge Scheme

Introduction

Bass Coast Shire has a legacy of urban areas with unsealed roads that have no underground drainage or footpaths. The estimated cost of bringing these urban areas to a basic level of infrastructure is over $250 million.

This statement, as it supports a proposed special charge scheme, addresses the calculation of the total amount that may be levied by Council on the property owners in this proposed scheme being those persons who receive a special benefit from the proposed works through the imposition of the proposed special charge (**Maximum Total Levy**).

The calculation of the Maximum Total Levy requires the following steps to be undertaken:

- first, the calculation of the total cost of the works
- second, the calculation of the 'benefit ratio' (**Benefit Ratio**) which depends on reasonable estimates being made of:
  i. 'total special benefits' to the properties included in the proposed scheme (TSB (in)) – that is, properties receiving a special benefit and being required to pay the special charge
  ii. 'total special benefits' to properties not included in the proposed scheme (if any) (TSB (out)) – that is, properties receiving a special benefit but not being required to pay the special charge, and
  iii. 'total community benefits' – that is, direct and tangible benefits to the broader community

A. Define Purpose

The purpose of the proposed special charge scheme is to defray the costs associated with the upgrade of the roads, the drainage network, and the provision of nature strip works and ancillary works, in the scheme area (**Scheme** and **Special Charge**).

Links Street, Surf Beach is one of the highest priorities within the Council's Urban Road and Drainage Improvement (URDI) Policy. Links Street has a history of dust, flooding and traffic safety issues, both broad and localised, over many years. These include but are not limited to the following:

- dust generated by traffic along unsealed roads, contributing to reduced air quality and amenity
- localised flash flooding and inundation from the high intensity storm events within the area and the majority of the area having no underground public drainage to cater for these flows

Consistent with the petition originally received by Council for Links Street, Surf Beach to be improved, there is now an opportunity to commence a special charge scheme process that is funded by a joint contribution from Council and property owners in the Scheme area. A formal special charge scheme is administered under the *Local Government Act 1989* (**Act**). A road and drainage upgrade project of the type presently being considered would take at least four years to deliver in line with the legislative process.

The purpose of improvement works would include but are not limited to the following:

- less dust to properties and impact to property owners' and occupiers' health and safety
- less risk of errant vehicles and unsafe driving behaviours along the gravel roads

- less risk of pedestrian trips, slips, falls and collisions with vehicles
- improved access for motorists and pedestrians
- improved underground drainage along the road reserve and less risk of flooding to adjacent properties

B. Ensure Coherence

It is considered that the proposed road and drainage improvement works located along Links Street will provide a special benefit to the property owners located within the Scheme area and boundaries and that this special benefit is otherwise physically connected to the purpose set out in A. It is also considered that, as earlier noted, the properties to be included in the Scheme – and only those properties – will receive a relevant special benefit.

C. Calculate Total Costs

The implementation of a special rate or charge is governed by section 163 of the Act. There are also Ministerial Guidelines made pursuant to section 163(2C) of the Act. These provide guidance to Council on how to calculate the Maximum Total Levy.

For this project, the Maximum Total Levy has been calculated in accordance with the Guidelines. The total levy amount, and other relevant data, is summarised in the table below:

Total Project Cost (not inc GST) **(Based on Preferred Concept Option)**	**$338,299**
Total Scheme Costs	**$338,299**
Benefit Ratio	**.7742**
Maximum Total Levy Amount	**$261,911**
Council Contribution (%)	**22.58%**
Council Contribution ($)	**$76,388**
Total Council Liability	**$76,388**

D. Identify Special Beneficiaries

It is considered that all the properties – and only those properties – with a present frontage to the unsealed roads included within the Scheme area and boundaries (and as otherwise listed in the Schedule 2) will receive a special benefit from the proposed road works to be performed under the Scheme.

It is also considered that the properties – and only those properties – will receive a special benefit from the proposed drainage works to be performed under the Scheme (and that these drainage benefits will be over and above any road-related drainage benefits which already exist).

On this basis, all the properties in the Scheme, following completion of the works, will enjoy a right of abuttal and access to roads which have been fully constructed to Council's satisfaction, and they will have a legal right to connect their surface and storm water and internal drainage systems to a complete and functional physical public drainage system within the public road network (or via easements otherwise servicing their properties (to be created at the rear of some lots)). (This will be so, notwithstanding that some of the properties in the Scheme already have their internal surface and storm water drainage systems connected to (or have a separate right to connect their internal surface and storm water drainage systems to) other Council drains in the area being drains which are presently located within other road reserves servicing the area (and whether that separate right has been paid for under any previous special charge scheme or otherwise)).

The boundaries delineating the area of the Scheme and showing the properties which are considered to receive a special benefit from the road and drainage improvements proposed is shown below in Figure 1.



Figure 1 – Scheme Area and Boundaries

As already noted, only the 12 privately owned rateable properties included in the Scheme are considered to receive a special benefit from the works to be provided under the Scheme. The relevant special benefit is in the form of the construction of the roads and the provision of a fully integrated underground external surface and storm water drainage system in the roads being constructed to service all the properties in the Scheme area.

It is separately acknowledged that not all the properties within the Scheme area will receive the same level of road and drainage improvement benefits. There are, for example, some properties within the Scheme area that will not receive the same level of road and drainage improvement benefits as other properties within the Scheme area.

Notwithstanding such 'property-specific differences' in the levels of overall special benefit, the purpose of the calculations in relation to the calculation of the Maximum Total Levy ignore this. The calculations do not require Council to address (and they do not address) issues pertaining to whether all properties receive the same level of benefits; these issues, otherwise pertaining to a fair and reasonable overall distribution of the special charge amongst all the property owners, are dealt with in the separate cost Apportionment and Distribution Statement.

For present information purposes, the relevant 'property-specific differences' are noted and summarised as follows:

These are summarised as follows:

The two properties at 9 Links Street and 12 Links Street share a boundary with The Esplanade and will not receive the same level of road improvement benefits as other properties within the Scheme. These properties will, however, still be considered to receive a 'full' road improvement special benefit for the purposes of the calculation of the Benefit Ratio, even though in the interests of fairness and equity, the properties will be given a 'discounted' road benefit charge at the distribution/apportionment stage.

The two properties at 1 Links Street and 2 Links Street share a boundary with Seaview Crescent and will not receive the same level of road improvement benefits as other properties within the Scheme. These properties will, however, still be considered to receive a 'full' road improvement special benefit for the purposes of the calculation of the Benefit Ratio, even though in the interests of fairness and equity, the properties will be given a 'discounted' road benefit charge at the distribution/apportionment stage.

As mentioned, all the properties included in the Scheme are privately owned rateable land and will receive a relevant special benefit. On this basis, they will comprise the Total Special Benefit (TSB (in)) properties. There are no reserves or community parks, or other property owned by Bass Coast Shire Council or any other public body or any other non-rateable land within the Scheme area. On this basis, no properties are required to be excluded from the assessment of special benefit as being a Total Special Benefit (TSB (out)) property (that is a property receiving a special benefit but not liable to pay the Special Charge).

E. Determine Properties to Include

For the purposes of calculating the Benefit Ratio, a notional benefit value, called a Benefit Unit (**BU**), will be used. This is equal to an 'average benefit' for all the properties included in the Scheme (viz. the 12 privately owned rateable properties). It is proposed, on this basis, that all properties included within the Scheme area will receive a 'half' benefit unit from the road works and a 'half' benefit unit from the drainage works (being a total of **1 BU** for each property).

F. Estimate Total Special Benefits

The total number of Benefit Units (TSB) has been calculated as follows:

TSB = TSB (in) + TSB (out)

Total Special Benefits = Total Special Benefits (in) + Total Special Benefits (out)

TSB (in) has been calculated as follows:

Total Special Benefit Units (In) (TSB in)	Drainage Works	Road Works
12 Rateable Residential Properties @ 0.5 BU each		6.0
12 Rateable Residential Properties @ 0.5 BU each	6.0	
Total TSB (in)	**12**	

TSB (out) has been calculated as follows:

Total Special Benefit Units Out (TSB out)	Drainage Works	Road Works
Council reserves and community parks, other public land or non-rateable land otherwise receiving a relevant special benefit but not capable of being charged (as explained in the body of the Benefit Ratio Statement)	0	0
Total TSB (out)	**0**	

Therefore, TSB = 12 + 0 = 12

G. Estimate Total Community Benefit

In addition to assessing the total special benefits for the Scheme, an assessment of any overall community benefit is also required to be undertaken to calculate the Maximum Total Levy.

In terms of assessing the level of overall community benefit, it is considered that the works included in the Scheme will provide a significant benefit to the broader community, and that accordingly, the level of benefit accruing to the properties required to pay the Special Charge will be correspondingly (and in this instance) substantially lower.

"Community benefits" are considered to exist where the Scheme works will provide tangible and direct benefits to people in the broader community. These will generally derive from the provision of works that are generally available to people other than the owners and occupiers of the properties receiving a special benefit.

The community benefits attributable to the proposed Scheme works are derived from the greater or external community receiving benefits, and arising from:

1. The use of Links Street for other property owners within Surf Beach and Sunderland Bay estates, however outside, and away from, the Scheme area boundaries.
2. Improvements in surface and stormwater quality discharging to the existing drainage outfalls

3. The reduced risk of sewerage overflows to the environment downstream.

On this basis, it is generally considered that people in the broader community will receive some benefits from the works being provided under the Scheme. Accordingly, Council should, in fairness and in accordance with the requirements of the Act and the Ministerial Guidelines, pay for that benefit.

The rationale for this is as follows:

- There will be some improvement in public road access for other community within Surf Beach and Sunderland Bay.
- There will be an improvement in water quality being discharged at the stormwater outfall drains.
- There will be environmental improvements downstream in Westernport Bay.

To further support this position, Council officers note, and are of the view that, based on surveys, research and traffic studies carried out by Council in 2021-2022, persons other than those living in Links Street will continue to use Links Street as a through-local road following the proposed road and drainage upgrade.

To assess the likely number of persons who are not accessing or servicing the 12 properties included in the Scheme, a community survey, Census data 2021 and traffic count has been used. These are considered in turn.

Community survey

A community survey of property owners within Surf Beach and Sunderland Bay was undertaken in May-June 2022 and Council received 394 questionnaires filled in. Property owners in the estates showed the following:

- There was an average of 2.7 vehicle trips per day per household, however this was an estimate only and included property owners trips, and did not account for vehicles movements required for servicing the properties, such as trades, cleaning services, deliveries and visitors to private properties.
- On average property owners with holidays homes spent approximately 103 days per year at the properties.

Traffic data

Traffic data collected in the Christmas holidays of 2021-22 (peak traffic period) and then in February 2022 (off peak traffic period), Census data 2021 and carparking surveys showed the following:

- There were 4.9 vehicle trips per property generated in peak traffic periods is within a reasonable level of the assumed amount of traffic being generated by private properties.
- There were 6.5 vehicle trips per property generated in peak traffic periods is within a reasonable level of the assumed amount of traffic being generated by private properties.

The Infrastructure Design Manual 2019 Version 5.30, Clause 12.3.1 used by Bass Coast Shire Council recommends that there are 10 vehicle trips generated per household per day for residential urban areas when fully developed.

The 4.9 and 6.5 vehicle trips per property generated in peak and off-peak traffic periods are within a reasonable level of the assumed amount of traffic being generated by the 12 private properties.

Multiplying the 4.9 and 6.5 vehicle trips per property by the 12 properties along Links Street equates to 59 and 78 vehicle movements per day respectively for peak and non-peak periods.

It is assumed there are 116 peak traffic periods (days) per year based on the long weekends, school holiday periods and summer weekends in December and February as shown in Table 2 below. This also aligns closely with the average amount of time property owners with holiday homes spend in the area each year according to the community survey data collected (103).

Typical peak holiday periods per year			**Days**
Christmas holidays	18/12/2021	30/01/2022	44
Labour Day weekend	12/03/2022	14/03/2022	3
Easter school holidays	9/04/2022	25/04/2022	17
Anzac day	25/04/2022	25/04/2022	1
Queens birthday weekend	11/06/2022	13/06/2022	3
June school holidays	25/6/2022	10/7/2022	16
AFL Grand Final weekend	23/09/2022	25/09/2022	3
September school holidays	17/09/2022	2/10/2022	16
Additional summer weekends in December & February			13
		Total	116

Table 2: Peak traffic periods per year

Based on an ultimate design of 4.9 and 6.5 vehicle trips being generated by private properties in peak and off-peak periods respectively, the following vehicle trips per year would be generated in the future as shown in Table 3.

Vehicle trips generated by private properties	Vehs/day	Days	Properties	Vehicle trips per year
Peak veh/day	4.9	116	12	6,821
Off peak (veh/day)	6.5	249	12	19,422
			Total	**26,243**

Table 3: Vehicle trips per year generated by private properties

The amount of **26,243** vehicle trips per year will be used as a reference related to the 6.0 Benefit Units being generated by the road works for the private properties.

There are also many other properties within Surf Beach and Sunderland Bay estates that may generate traffic along Links Street from outside of the proposed Scheme. This is shown in Figure 2 below:

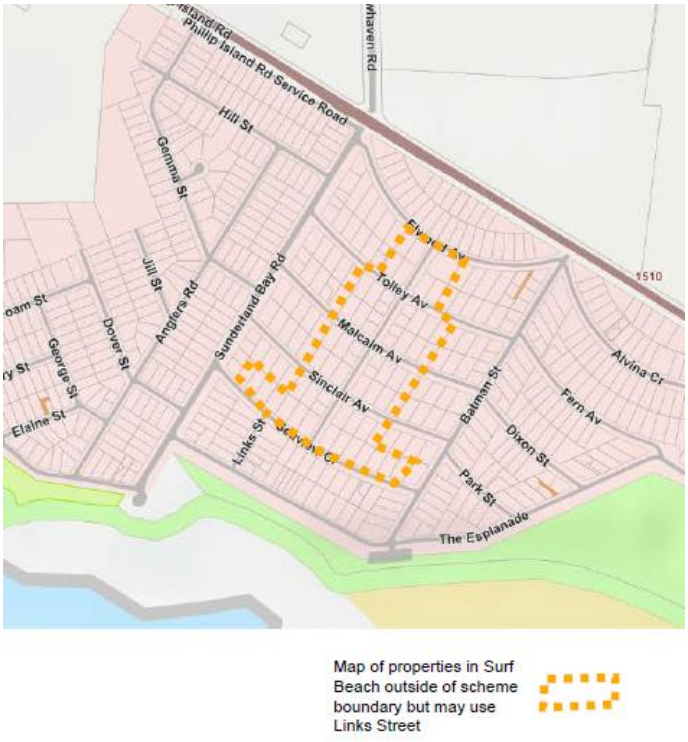


Figure 2 –Map of properties within Surf Beach and Sunderland Bay estates that may generate traffic from outside of the scheme boundaries along Links Street.

Traffic counts were undertaken along Links Street in January and October 2024. The traffic counts show an average of 17 vehicle trips per day in October (off peak period) and 18 vehicle trips per day in January (peak period), which were similar numbers showing this specific road was not significantly affected by increased traffic in the peak periods such as summer. The location of the traffic counters are shown in the Figure 3 below.



Figure 3 –Traffic count data along Anglers Road and similarities with Links Street

Due to the location of the traffic counter (mid block) and the orientation of the street (north – south), there could have been a lower number average traffic count because properties to the north of the traffic counter exited and entered the street without crossing it and also similarly for properties south of the traffic counter.

In peak periods of traffic, it is estimated that there are would be no more that 15 vehicle trips per day generated from traffic outside of the Scheme boundaries (from other traffic within Surf Beach and Sunderland Bay).

In off peak periods of traffic, it is also estimated that there are would be no more that 15 vehicle trips per day generated from traffic outside of the Scheme boundaries (from other traffic within Surf Beach and Sunderland Bay).

A conservative allowance (but otherwise 'generous' amount) of a 100% increase has been allowed for the wider community traffic using Links Street in the future if the road is fully sealed.

The resulting vehicles trips per year generated by the wider community (properties within Surf Beach and Sunderland Bay estates, however outside of the Scheme boundaries) is shown in Table 4 below.

Vehicle trips generated by the wider community	**Current Vehs/day**	**Increase for traffic dynamic changes**	**Days**	**Vehicle trips per year**
Peak veh/day	15	100%	116	3,480
Off peak (veh/day)	15	100%	249	7,470
			Total	**10,950**

Table 4: Vehicle trips per year generated by wider community access

Based on a pro-rata approach, the amount of Benefit Units to be adopted for wider community road benefits will be 10,950/26,243 x 6.0 BU = 2.5 BU

There will also be an improvement in water quality being discharged at the stormwater outfall drains through sealing of the roads. It is recommended that 0.5 BU be allowed for this benefit which again is considered to be (at best) a marginal benefit and otherwise generous. The cost of the Scheme works (referrable to the sealing of the roads) results in an allowance of 6.0 BU. This is approximately 8% (0.5/6.0) of the Scheme road benefits and is considered to be reasonable.

There will be an improvement in terms of risk mitigation involving sewage spills within the area when there are heavy rains. The installation of underground stormwater drainage and reconnection of illegal tappings from houses into the sewer pipes and over to the stormwater system will direct stormwater through larger pipes instead of small sewer pipes that cannot handle the flow. Although this is a minor benefit to the project and not the main purpose of the Scheme, it is recommended that a conservative amount of 0.5 BU be allowed for this benefit which again is considered to be (at best) a minor benefit. The cost of the Scheme works (referrable to the drainage) results in an allowance of 6.0 BU. This is approximately 8% of the Scheme drainage benefits and is considered to be reasonable.

The total community benefits are shown in the table below:

Total Community Benefits (TCB)	
External wider community traffic	2.5
Sealing of the roads resulting in better water quality	0.5
Reduced risk of sewage overflows	0.5
Total TCB	**3.5**

H. Calculating the Benefit Ratio

The Benefit Ratio is calculated as:-

$$R = \frac{TSB\ (in)}{TSB\ (in) + TSB\ (out) + TCB}$$

$$R = \frac{12}{12 + 0 + 3.5} = \frac{12}{15.5}$$

Benefit Ratio = 0.7742

I. Calculating the Maximum Total Levy

The Act and the Ministerial Guidelines set out the basis for administering the Scheme and determining the distribution of costs. Council must determine the maximum amount that property owners included within the Scheme can contribute towards the cost of the works known as the Maximum Total Levy.

The legislation requires Council to determine the following:

- To identify any properties within the Scheme boundaries that will not be included in the Scheme (as properties required to pay the Special Charge) but which will receive a special benefit. This requirement primarily relates to non-rateable properties such as Council or Crown land. The Guidelines indicate that Council should contribute financially for these properties. No such properties exist in this Scheme.
- To assess the level of community benefit requiring Council to contribute to the Scheme costs based on the level of benefit to the broader community.

The following formula is used to determine the Maximum Total Levy amount:

S = R x C

Where **R** is the Benefit Ratio determined by Council, **C** is the total Scheme costs and **S** is the Maximum Total Levy amount that may be levied from all the persons who are liable to pay the Special Charges (being maximum amount levied to landowners).

Maximum Levy Amount (R x C = S)
0.7742 x $338,299 **= $261,911**

Apportionment and Distribution Statement

Links Street, Surf Beach
Special Charge Scheme

Introduction

Council has developed a priority list of all areas across Bass Coast Shire that have unconstructed streets and inadequate drainage with the view to upgrading these areas. The policy which guides these projects is Council's Urban Roads and Drainage Improvement (URDI) Policy 2024. The funding mechanism for these types of upgrades shall be adopted through Council resolution. Funding sources may include:

- direct Council contribution
- external grants, funding, or contributions
- a special rate or charge in accordance with Section 163 of the *Local Government Act 1989* (**Act**)
- and / or a combination of the above

The special charge provisions allow for costs to be equitably attributed to those who receive a special benefit.

Links Street, Surf Beach has had a history of dust, flooding and safety issues over many years. These include but are not limited to the following:

- Flooding of roads and private property from high rainfall events
- Dust issues created by passing vehicles
- Pedestrian safety issues due to pedestrians using roads to walk along for access

At its 19 June Council Meeting 2024 Council resolved to:

1. Proceed with the initiation of three upgrade projects consisting of two at The Esplanade and another at Links Street
2. Note that the preferred concept designs and funding mechanism for potential upgrade projects would need to be considered at a future meeting of Council
3. Advise the head petitioners of Council's decision.

It is expected that all properties included within the Scheme are expected to gain a special benefit from road and drainage works, over and above what currently exists. There are several properties within the Scheme area that will not receive the same level of road and drainage improvement benefits as other properties within the Scheme area. Those properties that do not receive the same level of benefits, in the interests of fairness and reasonableness, shall receive a 'discounted' road or drainage benefit and this process is further detailed in below sections of this statement.

A. Method of Apportionment

For this project, the Maximum Total Levy amount has been calculated in accordance with the Act and the Ministerial Guidelines. The total levy amount and other relevant data is summarised in the table below.

Total Project Cost (not inc GST) **Preferred Concept Option**	**$338,299**
Total Scheme Costs	**$338,299**
Benefit Ratio	**.7742**
Maximum Levy Amount	**$261,911**
Council Contribution (%)	**22.58%**
Council Contribution ($)	**$76,388**
Total Council Liability	**$76,388**

Table 1: Scheme costs

To apportion and distribute the Maximum Total Levy amount amongst and between the properties included within the Scheme, each property was assessed to determine the special benefit they will receive from the works. The Maximum Total Levy amount has been distributed amongst all the properties that are considered to receive a special benefit from the works.

All 12 properties within the Scheme receive a relevant special benefit from the works to be provided under the Scheme. The relevant special benefit is the construction of roads and the provision of an underground stormwater drainage system in the roads.

Adjustment Factors

Once the Maximum Total Levy amount has been calculated, it is necessary to determine an appropriate way to distribute the total costs to and amongst all property owners included within the Scheme boundary. One traditional method of apportionment is to distribute costs partly based on road component costs and partly based on drainage component costs.

The road component costs are ordinarily distributed through two different methods. The first method is based on a percentage of boundary lengths adjacent or fronting the road, meaning those properties with a longer front boundary will contribute more based on proximity and accessibility to the road. The second method is to distribute the road component costs evenly amongst all the property owners based on property owners receiving a similar improvement based on similar usage of the road network.

In this Scheme, the property sizes and shapes in the Scheme boundary vary and due to this some have very small or very large boundaries adjacent to/adjoining the road being constructed. The large differential in boundary lengths creates a large difference in cost distribution if costs are apportioned only using this method. If the method of distributing the road component costs equally amongst property owners is used, then it does not account that some property owners with longer front boundaries will be gaining additional benefit from the proximity and accessibility that comes with a longer boundary adjacent to the road. For these reasons, it is considered appropriate to also consider a method of apportioning the road component costs using a combination of the two methods such that some of the costs are distributed based on boundary length adjacent to the road and some of the costs are distributed equally amongst property owners based on a similar usage of the road.

The drainage improvement component costs are traditionally based on the area of the properties as the area is proportional to the amount of stormwater that the property would be potentially contributing towards the drainage network based on the property's potential to install a residential dwelling and associated impervious area that contributes to stormwater flows.

The site area and front and/or side boundary lengths of each property is established and checked against the property title or plan of subdivision.

Adjustment factors for each property are then considered to ensure the resulting apportionment costs are considered fair and equitable for all properties included in the Scheme. These adjustment factors included:

- Whether road component costs are apportioned equally or based on boundary lengths
- Whether a property has a front and/or side boundary (i.e. a corner lot)
- Whether a property may be subject to a future special charge scheme, such as a corner lot.

After evaluating various alternatives for the method of distribution, it was considered that the method adopted results in the fairest and most equitable distribution of costs amongst the property owners.

The distribution of costs amongst the properties in the Scheme has been distributed on the basis of road and drainage components of works. Road component costs of works have been distributed based on the following various factors which include:

- A portion of the road component costs being equally shared amongst all property owners
- A portion of the road component costs being distributed to property owners based on boundary lengths (front and side) adjacent to a road(s) proposed to be upgraded
- A discount being applied to the side boundary of a property adjacent to a road
- A discount being applied to a property that may be subject to a future special charge scheme, such as a corner lot.

The distribution of drainage component costs of works has been distributed based on the following factors:

- Property area
- A discount being applied to a property that may be subject to a future special charge scheme, such as a corner lot.

Once these dimensions and factors had been confirmed, each property's individual circumstances were considered, and different adjustment factors were trialled. These factors are as follows:

Consideration A – **Recommended**

It was considered that the road component distribution of costs be based on:

- 25% of the road component costs to be distributed based on property boundary lengths adjacent to road(s)
- 75% of the road component costs to be distributed equally amongst properties
- Street boundary length is made up of 100% the front boundary (typically the shorter boundary) and 30% of any additional boundaries with other streets (for example a corner lot)
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

It was considered that the drainage component distribution of costs be based on:

- Area of the property
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

Consideration B

It was considered that the road component distribution of costs be based on:

- 50% of the road component costs to be distributed based on property boundary lengths adjacent to road(s)
- 50% of the road component costs to be distributed equally amongst properties
- Street boundary length is made up of 100% the front boundary (typically the shorter boundary) and 30% of any additional boundaries with other streets (for example a corner lot)
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

It was considered that the drainage component distribution of costs be based on:

- Area of the property
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

Consideration C

It was considered that the road component distribution of costs be based on:

- 75% of the road component costs to be distributed based on property boundary lengths adjacent to road(s)
- 25% of the road component costs to be distributed equally amongst properties

- Street boundary length is made up of 100% the front boundary (typically the shorter boundary) and 30% of any additional boundaries with other streets (for example a corner lot)
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

It was considered that the drainage component distribution of costs be based on:

- Area of the property
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

Consideration D

It was considered that the road component distribution of costs be based on:

- 100% of the road component costs to be distributed based on property boundary lengths adjacent to road(s)
- 0% of the road component costs to be distributed equally amongst properties
- Street boundary length is made up of 100% the front boundary (typically the shorter boundary) and 30% of any additional boundaries with other streets (for example a corner lot)
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied

It was considered that the drainage component distribution of costs be based on:

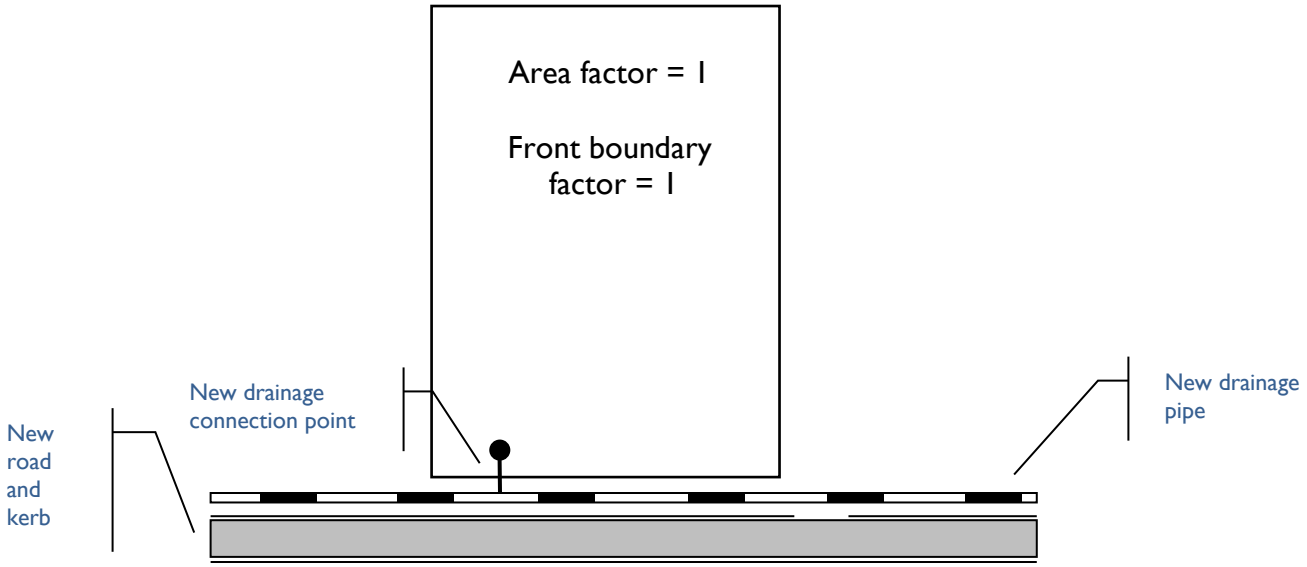
- Area of the property
- Properties that may be subject to a future special charge scheme, such as a corner lot, will have a 50% discount applied.

Consideration A has been considered the most fair and equitable option amongst all properties as costings resulted in being more evenly spread throughout, while still considering all the various factors.

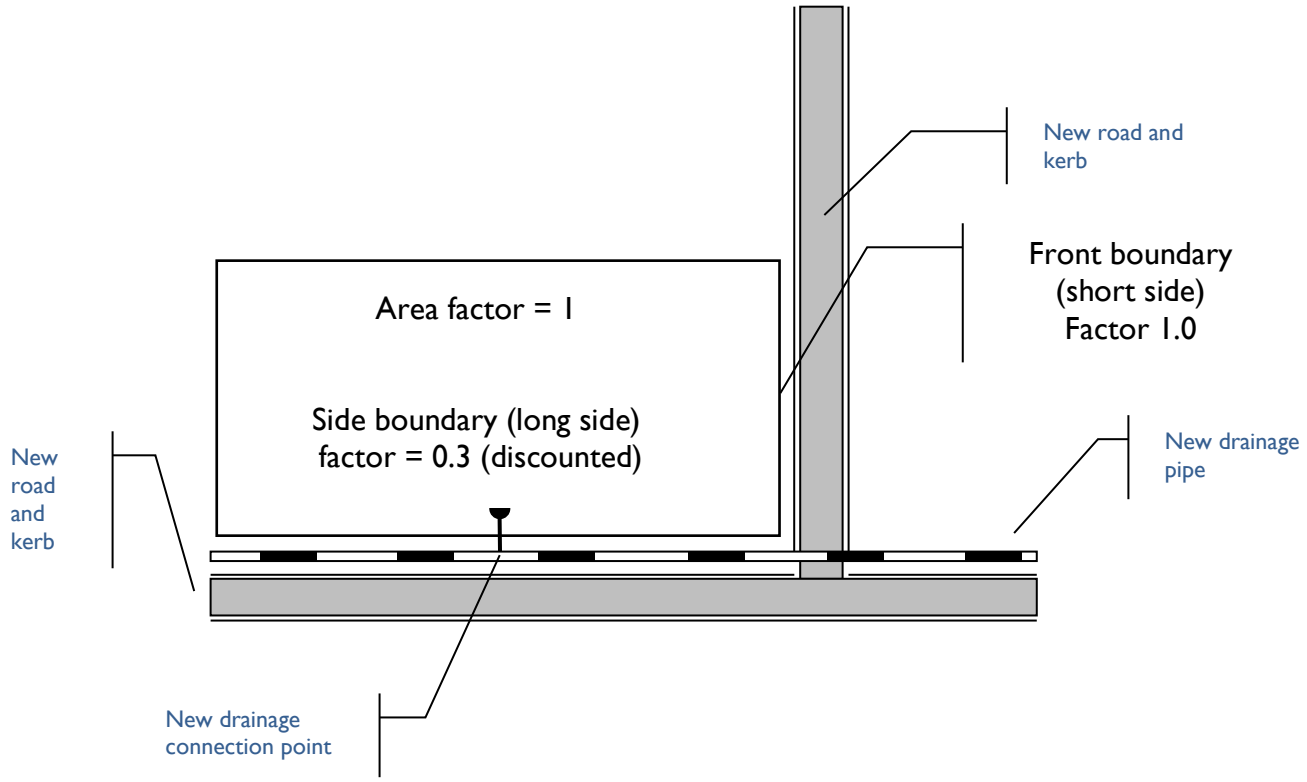
A detailed list of distribution of costs compared is outlined in Table 3.

Examples of how the adjustment factors could be used to distribute the costs amongst property owners are shown below:

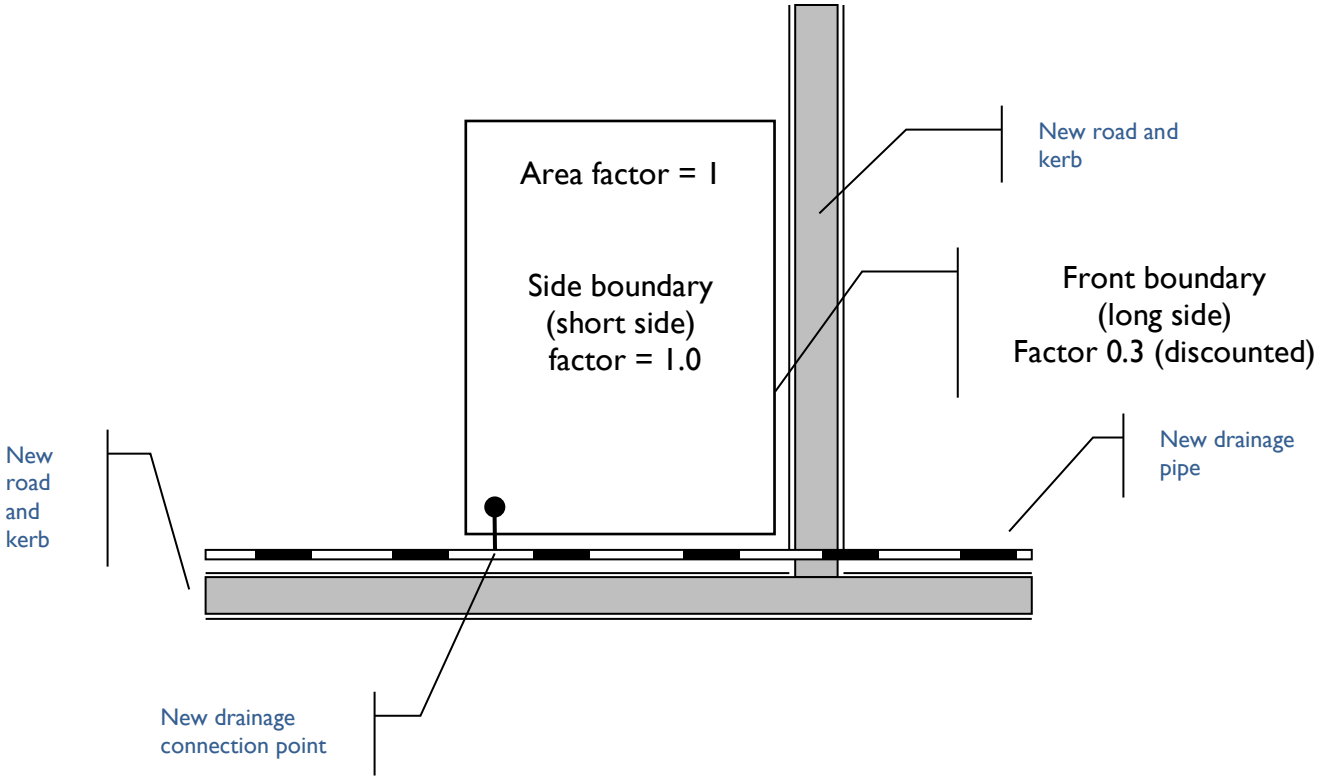
Standard property (no adjustment)



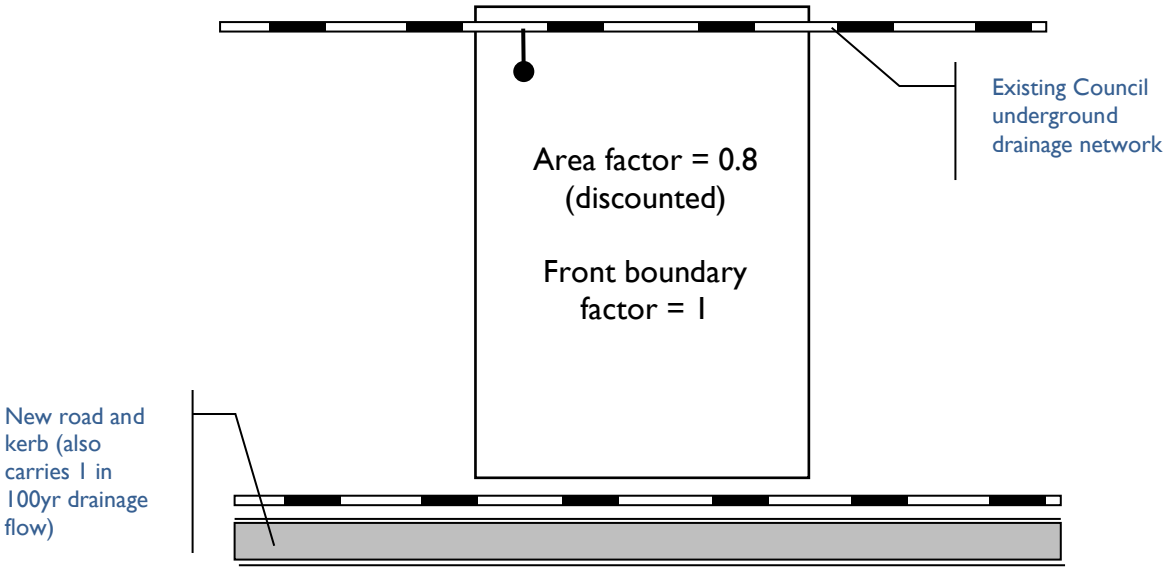
Corner Property (long boundary)



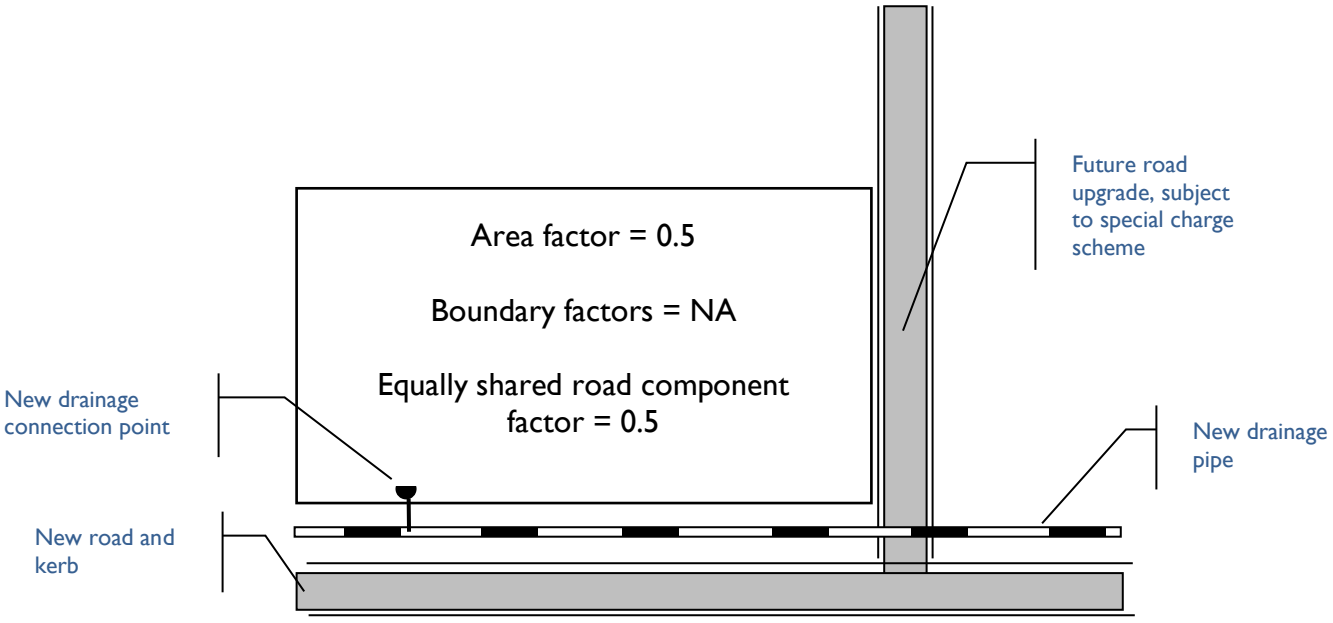
Corner Property (short boundary)



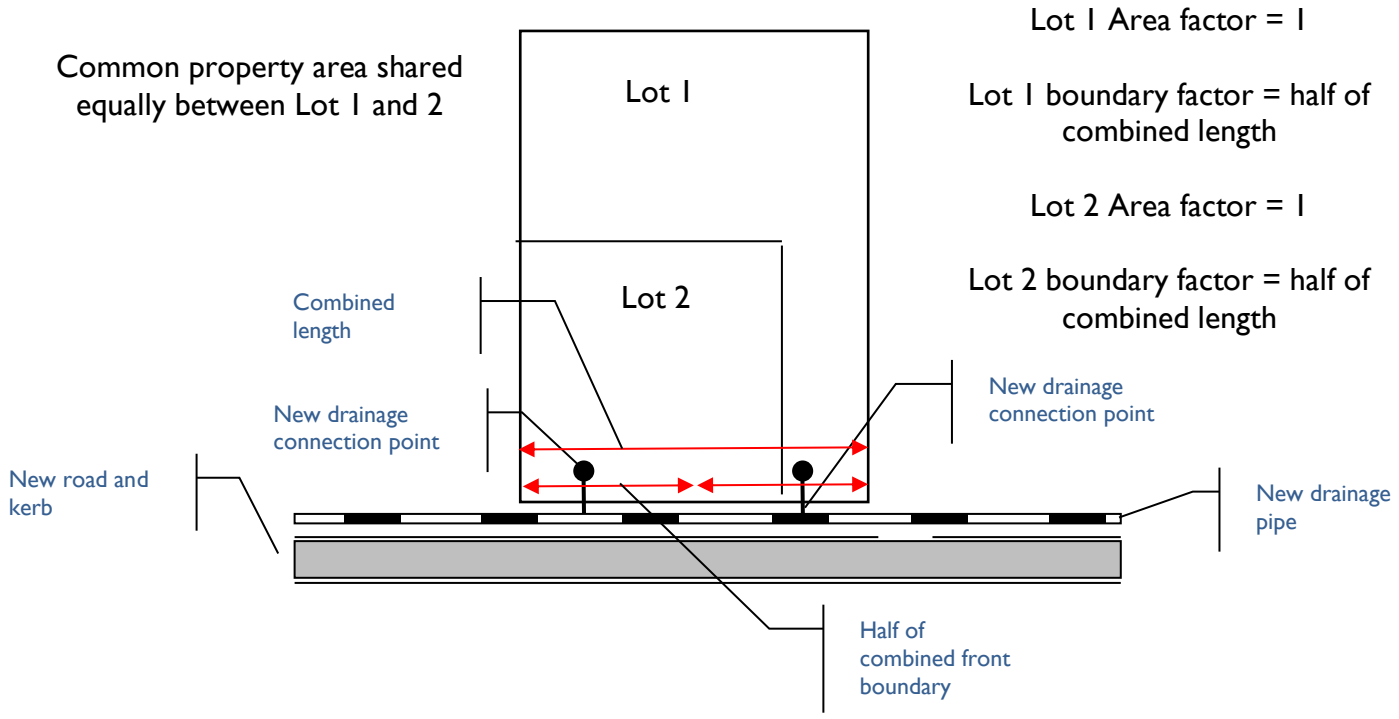
Property with existing Council underground drainage network



Corner property next to potential future special charge scheme



Shared Front Boundary



In order to apportion the Maximum Total Levy amount between the properties within the Scheme, each property was assessed to determine the special benefit they receive from the works. Refer to the Benefit Ratio Statement.

The apportionment data is collected and summarised within the attached Table 3. Actual dimensions and areas of properties have been obtained from title information.

Multiple Boundary Adjustments (i.e. corner lots)

The properties included in the Scheme that have more than one boundary with roads, such as a front (short) boundary and a side (long) boundary adjacent to different streets will receive different benefits from road related infrastructure and as such will have an adjustment factor of 0.3 applied to the length of side boundary. The total boundary of the property that will be considered will be a combination of the front boundary (short) and 0.3 of the side boundary adjacent to roads.

Adjustment for future special charge scheme

There are 4 properties (identified below) that have the potential to be affected by a future road and drainage improvement project on an adjacent street. So that there is not a doubling up of special charges from two different road and drainage upgrade projects, there will be a 50% discount in regard to aspects that would be considered in both schemes, such as area of the lot and equally sharing of costs. There would not be a discount on the boundary length component of costs as this would only apply to each individual special charge scheme. The properties considered for this discount are listed in Table 2 and shown in Figure 1 below:

1 Links Street
2 Links Street
9 Links Street
12 Links Street

Table 2: List of properties with potential for future special charge schemes



Figure 1: Properties with potential for future special charge schemes

Special Benefit Unit Calculation Costs

Once the adjustment factors are determined, the costs are then distributed to each property by defining and applying Benefit Units (BU) to each property. There will be different BU for each component of the overall scheme cost and if those components are to be distributed differently, such as sharing equally or based on a length or area. Each property will have different amounts of BU applied to each cost component depending on the adjustment factors.

If the costs are shared equally, all properties will have 1 BU applied and some properties may have this discounted for various adjustment factors. The value of 1 BU will be equal to the cost of that component divided by the amount of BU in total applied. The total number of BU will be less than the total number of properties.

If the costs are distributed by length or area, then the property with the smallest length or area will have 1 BU applied. Other properties will have a BU applied in proportion to this smallest length or area. For example, if the smallest boundary was 12m, this property would have 1 BU. A property with 15m boundary would have 1 x 15/12 BU applied = 1.25 BU.

In terms of distributing the costs in relation to boundary length and area, the smallest boundary adjacent to the road is 7 Links Street and 7A Links Street (both 7.62m) and the property with the smallest area is 7 Links Street (312 sq.m).

Note that the road component costs have been broken down into 2 portions to distribute the costs. These portions are:

- 75% of road components costs to be equally shared
- 25% of road components costs to be distributed based on boundary lengths adjacent to roads

Distribution of Road Sealing Components Costs to be Equally Shared

In terms of calculating the distribution of the equally shared road component sealing costs, this is undertaken by firstly calculating the value of one Road Sealing Equally Shared Related Infrastructure BU (RSESRI BU) and then multiplying this amount by the number of RSESRI BU applied to each property.

The amount of road component cost to be equally shared amongst property owners has been considered to be 75% based on there being a split between the two traditional methods of cost apportionment.

One RSESRI BU is calculated by then multiplying the road component cost by 75% and then dividing by the total RSEQRI BU across the scheme.

The total RSESRI BU = 10

The road component cost is $135,380

1 RSESRI BU = 75% x $135,380 / 10

= $10,153.5128

Distribution of Road Sealing Components Costs Related to Boundary Length

In terms of calculating the road component costs that are distributed by boundaries adjacent to the road, this is undertaken by firstly calculating the value of one Road Sealing Boundary Related Infrastructure BU (RSBRI BU) and then multiplying this amount by the number of RSBRI BU applied to each property.

The amount of road component cost to be distributed based on boundary length has been considered to be 25% based on there being a split between the two traditional methods of cost apportionment.

One RSBRI BU is calculated by then multiplying the road component cost by 25% and then dividing by the total RSBRI BU across the scheme.

The total RSBRI BU = 22.2585

The road component cost is $135,380

1 RSBRI BU = 25% x $135,380/ 22.2585

= $1,520.5446

Distribution of Drainage Components Costs Related to Area

In terms of calculating the drainage component costs that are distributed by areas, this is undertaken by firstly calculating the value of one Drainage Related Infrastructure BU (DRI BU) and then multiplying this amount by the number of DRI BU applied to each property.

One DRI BU is calculated by then dividing the drainage component cost by the total DRI BU across the scheme.

The total DRI BU = 18.6905

The drainage component cost is $126,531

1 DRI BU = $126,531/ 18.6905

= $6,769.8066

RSESRI BU – Road Sealing Equally Shared Related Infrastructure Benefit Unit
RSBRI BU – Road Sealing Boundary Related Infrastructure Benefit Unit
DRI BU – Drainage Related Infrastructure Benefit Unit

Typical Apportionment Calculation Examples

Now that the relevant data has been determined, the total cost to each owner in the scheme can be calculated. The examples listed below are based on the various property benefits that are received by properties within the scheme. These examples include the following examples:

- a regular property
- a corner property

Regular Property (8 Links Street)



Property Information
Front boundary = 15.24m
Area = 650m2

Benefit Units for the Property
Road Related Infrastructure
RSESRI BU = 1.0000
RSBRI BU = 15.24/7.62 = 2

Drainage Related Infrastructure
DRI BU = 650 / 312 = 2.0833

Property Charge for Road and Drainage related infrastructure
Road Related Infrastructure
RSESRI BU x $10,153.5128 = 1.0000 x $10,153.5128 = $10,153.5128
RSBRI BU x $1,520.5446 = 2.0 x $1,520.5446 = $3,041.0892

Drainage Related Infrastructure
DRI BU x $6,769.8066= 2.0833 x $6,769.8066= $14,103.5381

Total property charge = $27,298.14

Corner Property (1 Links Street) with potential for future special charge scheme

Property Information
Front boundary = 22.88m
Side boundary = 41.82m
Adjusted side boundary = 0.3 x 41.82 = 12.55m
Area = 879m2



Property Information
Front boundary = 22.88m
Area = 879m2

Benefit Units for the Property
Road Related Infrastructure
RSESRI BU = 0.5 x 1.0000 = 0.5
RSBRI BU = 22.88/7.62 = 3.0026

Drainage Related Infrastructure
DRI BU = 0.5 x 879 / 312 = 1.4087

Property Charge for Road and Drainage related infrastructure
Road Related Infrastructure
RSESRI BU x $10,153.51 = 0.5 x $10,153.51 = $5,076.7564
RSBRI BU x $1,520.5446 = 3.0026 x $1,520.5446 = $4,565.5872

Drainage Related Infrastructure
DRI BU x $6,769.8066= 1.4087 x $6,769.8066= $9,536.6266

Total property charge = $19,178.97

Table 3: Distribution of Costs

Property Address	Legal Description	Consideration A	Consideration B	Consideration C	Consideration D
1 Links St	LOT 60 LP 12328	$19,178.97	$22,052.31	$24,925.64	$27,798.98
2 Links St	LOT 50 LP 12328	$15,111.26	$15,685.84	$16,260.41	$16,834.99
3 Links St	Lot 1 TP 211477G	$27,298.14	$26,954.73	$26,611.31	$26,267.90
4 Links St	Lot 1 TP 167846T (Frmly LOT 49 LP 12328)	$27,298.14	$26,954.73	$26,611.31	$26,267.90
5 Links St	LOT 62 LP 12328	$27,298.14	$26,954.73	$26,611.31	$26,267.90
6 Links St	Lot 1 TP168221 (Frmly LOT 48 LP 12328)	$27,298.14	$26,954.73	$26,611.31	$26,267.90
7 Links St	Lot 1 PS803577	$18,443.86	$16,579.90	$14,715.94	$12,851.99
7A Links St	Lot 2 PS803577	$19,007.79	$17,143.83	$15,279.87	$13,415.91
8 Links St	LOT 47 LP 12328	$27,298.14	$26,954.73	$26,611.31	$26,267.90
9 Links St	LOT 1 LP 425618K	$11,421.45	$12,580.68	$13,739.90	$14,899.13
10 Links St	Lot 1 TP156208 (FRM L 46 LP 12328)	$27,298.14	$26,954.73	$26,611.31	$26,267.90
12 Links St	LOT 45 LP 12328	$14,959.06	$16,140.34	$17,321.61	$18,502.88

BASS COAST

Schedule 1: Scheme Boundary



BASS COAST

Schedule 2:
Links Street, Surf Beach
Special Charge Scheme Estimate of Cost

Property Address	Legal Description	Estimated Cost
1 Links St	LOT 60 LP 12328	$19,178.97
2 Links St	LOT 50 LP 12328	$15,111.26
3 Links St	Lot 1 TP 211477G	$27,298.14
4 Links St	Lot 1 TP 167846T (Frmly LOT 49 LP 12328)	$27,298.14
5 Links St	LOT 62 LP 12328	$27,298.14
6 Links St	Lot 1 TP168221 (Frmly LOT 48 LP 12328)	$27,298.14
7 Links St	Lot 1 PS803577	$18,443.86
7A Links St	Lot 2 PS803577	$19,007.79
8 Links St	LOT 47 LP 12328	$27,298.14
9 Links St	LOT 1 LP 425618K	$11,421.45
10 Links St	Lot 1 TP156208 (FRM L 46 LP 12328)	$27,298.14
12 Links St	LOT 45 LP 12328	$14,959.06

(AT-4) - ATTACHMENT 4

PROPOSED DECLARATION OF SPECIAL CHARGE FOR THE PURPOSE OF CONSTRUCTING AND IMPROVING ROADS AND DRAINAGE ALONG LINKS STREET, SURF BEACH.

1. Bass Coast Shire Council (**Council**) at the 15 October 2025 Council Meeting proposes to declare a Special Charge (**Special Charge**) under section 163(1) of the *Local Government Act 1989* (**Act**), and otherwise according to law, for the purpose of defraying costs and expenses incurred and/or to be incurred by Council in relation to the construction and improvement of roads and drainage along Links Street, Surf Beach situated within the municipal district of the Council (**Street**), such works involving the full upgrade of roads and drainage, including the provision of road pavement and sealing works, the provision of underground surface and storm water drainage in the Street, the provision of kerb and channelling, nature strip works, road narrowings for local traffic management, and other ancillary works necessary to complete the construction of the project known as the 'Links Street Special Charge Scheme' otherwise in accordance with the concept plans approved by Council at the 18 June 2025 Council Meeting (**Scheme**). So far as can be reasonably ascertained from available records of the Council and can reasonably be concluded, Council has ascertained that the roads or any component of the roads for which it is proposed the Special Charge will be declared have not previously been constructed by way of a special rate or charge.

2. The criteria which form the basis of the Special Charge are the ownership of rateable land in the Scheme area based on equally sharing the costs of some portions, front or side boundaries of the properties in the Scheme (modified where appropriate) for some portions and the area of the properties in the scheme (discounted where appropriate) for some portions which abut the roads to be constructed or upgraded, and which rateable land is situated within the geographical area in which the properties described in paragraphs 8 and 9 of the proposed declaration are included.

3. Council considers that –

   (a) each rateable property included in the Scheme area that is liable to pay the Special Charge will receive a special benefit through the provision of proper, safe and suitable roads, drainage and property services; and

   (b) there will be a special benefit to the persons liable to pay the Special Charge because there will be a benefit over and above, or greater than, the benefit to persons who are not subject to the Special Charge and, directly and indirectly, the works to be provided will enhance or maintain the value and the use, occupation and enjoyment of the properties included in the Scheme, through the provision of proper, safe and suitable roads and drainage and property services.

4. In proposing the declaration of the Special Charge, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district

of the Council, in particular the provision of proper, safe and suitable roads, drainage and property services in the area for which it is proposed the Special Charge will be declared.

5. The total cost of the performance of the functions and the exercise of the powers referrable to the Scheme (and the amount which the Council intends to declare and levy) is an amount of **$338,299** (being the estimated cost of the Scheme works to be undertaken) with Council intending to declare and levy by way of the Special Charge an amount of **$261,911.**

6. The Special Charge will commence on and from the making of any Council decision to declare the Special Charge and will remain in force until such time as the Special Charge has been paid in full.

7. The Special Charge will be declared and assessed in accordance with the amounts which have been calculated and appear alongside each property in the Schedule attached to and forming a part of this proposed declaration of Special Charge (being Schedule 2), such amounts having been calculated based on both a road component cost and a drainage component cost as referrable to a combined method of sharing some costs equally and using the length of the frontage and/or sideage of each property included in the Scheme (for the road component) and the area of each property included in the Scheme (for the drainage component).

8. The area for which the Special Charge is to be declared is all the land shown on the plan set out in the Schedule attached to and forming a part of this proposed declaration of Special Charge (being Schedule 1).

9. The land in relation to which the Special Charge is to be declared is all the rateable land described in the list of rateable properties set out in the Schedule attached to and forming a part of this proposed declaration of Special Charge (being Schedule 2)

10. The Special Charge will be declared, assessed and levied in accordance with the amounts set out alongside each property in the Schedule attached to and forming a part of this declaration (being Schedule 2), such amounts having been assessed based on the criteria set out in paragraphs 2 and 7.

11. The Special Charge will be levied by the Council sending a notice of levy to the persons who are liable to pay the Special Charge. Incentives will be given for payment before the due date for payment as set out below. The levy notice to be sent will include four options for payment which are as follows –

    (a) Payment Option 1: Lump Sum Payment – upfront payment of the Special Charge in full within 30 days of the date of issue of an invoice, with a 5% discount and no interest.

    (b) Payment Option 2: Lump Sum Payment – upfront payment of the Special Charge in full within 90 days of the date of issue of an invoice, with no discount and no interest.

    (c) Payment Option 3: Instalment Payment Plan – payment of the Special Charge in 40 quarterly instalments over 10 years, with interest. Interest will be charged on the reducing balance of the principal each quarter at the rate of 1% above the estimated borrowing costs of the Council. If a ratepayer is late with payment of an instalment, penalty interest will be charged on the balance of principal due each quarter.

(d) Payment Option 4: Hardship Payment Plan - A payment plan, extended beyond 10 years to a maximum of 20 years, tailored to the individual needs of the ratepayer upon receipt of a completed Financial Hardship Application Form. This option is subject to the Council assessing the property owner as experiencing financial hardship, in accordance with the Council's Hardship and Financial Hardship Policy. Interest will be charged on the reducing balance of the principal each quarter up to the maximum rate of 1% above the estimated borrowing costs of the Council.

Ratepayers who elect to pay by instalments will receive subsequent quarterly instalment notices.

12. Because the performance of the functions and exercise of the powers in respect of which the Special Charge is to be declared and levied relates substantially to capital works, the Special Charge will be levied on the basis of an instalment plan being available to ratepayers (being 'Payment Option 3: Instalment Payment Plan'), which will allow ratepayers to pay the Special Charge by 40 quarterly instalments over a 10 year period or as otherwise negotiated, or (being 'Payment Option 4: Hardship Payment Plan') which will allow ratepayers to pay the Special Charge over a maximum of 20 years, or as otherwise negotiated. Quarterly instalments will include a component for reasonable interest costs, which will be charged at the rate of 1% above the estimated borrowing costs of Council in respect of the construction of the roads and the provision of the drainage works.

13. The Council will consider cases of financial and other hardship and may negotiate other payment options for the Special Charge, in accordance with the Council's Hardship and Financial Hardship Policy.

14. For the purposes of having determined the total amount of the Special Charge to be levied under the Scheme, the Council considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act (and in accordance with the Benefit Ratio Statement adopted by Council) that the estimated proportion of the total benefits of the Scheme to which the performance of the functions and exercise of powers relate (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Charge is in a ratio of 0.7742 or 77.42%.

15. Any declaration of the Special Charge will expire if the Special Charge is not levied to each person liable to pay it within 12 months after the day on which the declaration which relates to the Special Charge is made.

AT-5 Governing Documents

The Local Government Act 1989 and the Local Government Act 2020 (as amended) (Act)
These documents set out the statutory requirements that Council has in respect of local roads within the municipality.
The Act sets out the objectives of Councils. Section 3C(1) of this Act states that:
"the primary objective of a Council is to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of its decisions".
Furthermore in Section 3C(2) the Act states:
"In seeking in to achieve its primary objective, a Council must have regards to the following facilitating objectives –

a. To promote the social, economical and environmental viability and sustainability of the municipal district;
b. To ensure that resources are used efficiently and effectively and services are provided in accordance with Best Value Principles to best meet the needs of the local community;
c. To improve the overall quality of life of people in the local community."

Section 163 of the Local Government Act enables Council to make a declaration to defray the costs incurred or to be incurred by Council from persons considered to receive a special benefit from the works through a special charge scheme. Council has successfully implemented these types of schemes in the past.

The statutory procedures under Section 163 of the Act for declaring and levying a special charge are summarised as follows:

Procedural Step	**Status**	**Proposed Date**
Community Engagement undertaken to identify problems and prepare a concept plan to resolve the issues.	Completed	July 2024 – August 2024
Council resolve its intention to declare a Special Charge Scheme at its 18 June 2025 Council meeting, giving at least 28 days prior notice to declaring a scheme.	Purpose of this report	18 June 2025
Advertise and place a copy of the proposed declaration on display for at least 28 days after the publication of the notice.	Next step	25 June 2025

Committee of Council to consider all submissions in relation to Council's intention to declare the Special Charge Scheme.	Future step	August to September 2025
Council to consider the Committee's recommendations and decide to proceed with, vary or abandon the levying of the Special Charge Scheme at the October Council Meeting.	Future step	The Council Meeting in October 2025
Owners will be advised of Council's decision and of their rights of review if Council decides to proceed.	Future step	October 2025
Appeals can then be made within 30 days to the Victorian Civil Administrative Tribunal (VCAT) for review of Council's decision to proceed with the scheme.	Future step	November 2025
If an appeal is made to VCAT Council will need to await a hearing date. Subject to review and approval by VCAT, Council can then proceed with construction works included in the Special Charge Scheme.	Future step	2026-27, or earlier if no VCAT appeals are made

Section 163A of the Act outlines the formal statutory submissions process. This section of the Act states:

A person may make a submission under section 223 in relation to a Council's proposal to make a declaration under section 163.

Under Section 223 of the Act any person is eligible to make a submission regarding the proposed special charge. Those landowners included within the scheme will be advised that they can make a written submission and they can request to speak to their submission and have it heard by a Committee of Council, should they wish to do so.

A submission made under Section 163A of the Act can also be an objection to the proposed declaration. Section 163B of the Act outlines the separate objection process. This process requires Council to consider the level of written objections that are received in relation to the proposed special charge.

Council must consider the number of objections if the Maximum Total Levy (being the total amount to be recovered from landowners) exceeds two thirds of the total costs of the scheme. Section 163B(6) of the Act states:

A Council cannot make a declaration if the Council receives objections from persons who will be required to pay the special rate or special charge in respect of a majority of the rateable properties in respect of which the special rate or special charge would be imposed.

This means that, in accordance with Section 163B of the Act, if a majority of property owners (ie more than 50% of property owners) who are included within the proposed scheme and are required to pay a special charge, provide a written objection as part of the submission process, Council is required to abandon the scheme as per the proposed declaration.

A Committee of Council is required to be nominated and a date is required to be set to hear submissions. Should Council resolve to issue notice of its intention to declare the special charge scheme (in accordance with the recommendation in this report) the hearings will be August to September 2025 (depending on the number of submissions received and availability of nominated Councillors). It is suggested that the Committee to be appointed should consist of the Mayor and the three Island Ward Councillors.

The Act was amended in 2003 and ministerial guidelines in relation to Special Charge Schemes were introduced in 2004. The Act and the prescribed ministerial guidelines set out the basis for administering the scheme and determining the total scheme cost and then the distribution of that cost amongst contributors.

Council is required to determine the maximum amount that landowners included within the scheme must contribute, known as the 'Maximum Total Levy'. The legislation and guidelines require Council to:

- identify any properties within the scheme boundary that will not be included in the scheme (as financial contributors) but which will nonetheless receive a special benefit. This requirement primarily relates to non-rateable properties, such as Crown or Council-owned land. The guidelines indicate that Council should contribute financially for these properties; and
- determine the level of community benefit that Council is required to contribute to the scheme based on the level of benefit to the broader community (the community benefits must be clear, direct and tangible).

Council must determine the 'Maximum Total Amount' that may be levied on landowners in accordance with the Act. The following formula is used to determine the maximum amount:

R x C = S

Where

R is the benefit ratio determined by Council in accordance with the Act and prescribed ministerial guidelines

C is the total scheme cost

S is the maximum amount that may be levied on landowners

The benefit ratio (R) is the estimated proportion of the total scheme cost that the owners involved in the scheme can contribute. The balance is to be paid by Council on behalf of the whole community.

To determine the benefit ratio (R) for the proposed scheme in the Surf Beach and Sunderland Bay areas, an assessment of the properties included within the scheme has been undertaken.

The 'Benefit Ratio Statement' attached to the report (AT-2) provides a full description about how the benefit ratio (R) has been calculated and is being recommended to Council.

<u>The Council Plan 2021-25</u>

The Council Plan includes strategic objectives regarding making Bass Coast the place our community wants to be. The Plan describes what these strategic objectives are, why they are important and the actions we will take to ensure we address the key challenges and opportunities we will face, which include:

- Building resilience and protecting and enhancing our natural assets
- An inclusive community that embraces its lifestyle and supports health and wellbeing
- Strengthening the connection between people and the public places they share
- Progressing opportunities for visitation economy and business growth in harmony with our natural environment and sustainable values
- Prepare for growth while ensuring the intrinsic values and character of Bass Coast are retained
- Demonstrating leadership through good governance, transparency and accountability

In order to achieve these objectives, Council has a number of existing strategies, plans and policies to manage our resources effectively, whilst providing and improving infrastructure within the Shire. This includes the Urban Roads and Drainage Improvement Policy.

<u>Bass Coast Planning Scheme</u>

All of the land included within the proposed road and drainage upgrade project is zoned 'General Residential Zone – Schedule 1 (GRZ1). There are also overlays related to

properties within the proposed road and drainage upgrade project are the Design Development Overlay (DDO) and Vegetation Protection Overlay (VPO)

The purpose of the DDO is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

The purpose of the VPO is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.*
- *To maintain and enhance habitat and habitat corridors for indigenous fauna.*
- *To encourage the regeneration of native vegetation.*

Under the current Bass Coast Council's Planning Scheme, there are a number of key objectives that each new development needs to achieve prior to it being approved. These objectives are around landscape character, settlement, and neighbourhood character.

In Clause 11.01-1L-15 of the Bass Coast Planning Scheme there is an action which this project specifically addresses. With regards to settlement in the Surf Beach and Sunderland Bay local area, the following is stated:
"Increase the level of infrastructure provided in each estate "

In Clause 2.0 of the Bass Coast Planning Scheme there is an action which this project specifically needs to address. With regards to landscape character in the Surf Beach local area, the following is stated:
"To improve the clarity of edges to settlements and ensure the retention of the undeveloped, rugged coastal landscape between them, particularly west of Smiths Beach, and between Smiths Beach and Surf Beach."

In Clause 15.01-5L of the Bass Coast Planning Scheme there is an action which this project specifically needs to address. With regards to neighbourhood character in the Surf Beach and Sunderland Bay local area, the following is stated:
"Protect the scale and character of Sunderland Bay and Surf Beach."

<u>Asset Management Policy 2022-2026</u>
The intended outcomes of the policy and the processes that support it will facilitate:

- *Achievement of the management objectives for community, infrastructure, and operational assets to meet the present and future needs of the community;*
- *Custodianship of nature and heritage assets in perpetuity;*

- *The rationalisation of existing assets and the development of appropriate new assets to meet the needs of the Bass Coast community for services at an appropriate level now and in the future;*
- *The development or enhancement of the community capital of the Council;*
- *Delivery of assets at the right cost, at the right time with the right standard;*
- *A service planning approach becoming a way of life at BCSC; and*
- *Development of appropriate system, procedures, and controls to enable the above.*

Urban Roads and Drainage Improvement Policy 2024

The main policy which guides the implementation of projects such as this is the Urban Roads and Drainage Improvement Policy. The objectives of this policy are;

Establish Council's commitment to:

- *develop and deliver urban road and drainage projects in an effective and efficient manner of Council resources in a fair and equitable manner for all current and future ratepayers*
- *maximise opportunities for community participation and consultation in project development*
- *provide strategic direction and prioritisation of projects to ensure Council's investment in urban roads and drainage infrastructure is delivered in an integrated manner to address strategic service delivery needs*
- *provide transparency, accountability and consistency in Council decision making*
- *ensure that infrastructure upgrades aid the achievement of the Council Plan, Planning Scheme and related Asset Management Plan objectives*
- *ensure compliance with the requirements of the Local Government Act 1989 (the Act).*

The intended outcomes of the policy are:

- *a priority list of urban road and drainage improvement projects to enable Council to guide decisions about the order in which urban road and drainage improvement projects are undertaken*
- *project development mechanisms and thresholds are applied to ensure urban road and drainage improvement projects are developed in an efficient manner to maximise the likelihood of effective project construction*
- *unmade roads and insufficient drainage in urban areas are improved in a priority based manner to address community problems such as dust, flooding, poor active transport connectivity and traffic safety.*

The existing policy highlights Council's commitment to improving infrastructure for residents and ratepayers within urban areas.

Debt Management Policy

The Debt Management Policy sets out how any monies owed to Council, including those payable from a special charge, will be managed.

The objectives of this policy are;

The key objectives of the Debt Management Policy are to provide a framework within which procedures for the recovery of outstanding debts can be developed. The framework will ensure timely recovery of fees for Council services, and unpaid rates and charges and will minimise the writing off of bad debt. The policy principles will be carried out in a manner which will ensure a fair, equitable and compliant approach to Council's dent management and collection practices.

Hardship and Financial Hardship Policy

The Hardship and Financial Hardship policy outlines how Councill will assess applications that enables debtors living at their principal place of residence, who suffer or would suffer hardship or financial hardship if they were to pay the debt, to seek assistance from Council. The policy empowers Council to recover outstanding debt, wherever possible, in a manner that does not create or exacerbate a ratepayer's hardship or financial hardship.

The objectives of this policy are;

Council will assist vulnerable ratepayers experiencing hardship or financial hardship by providing options to help them meet their obligation of paying rates.

Hardship is a broad concept and may include where a person has limited, or low income and payment of rates and charges may be detrimental to their quality of life. Circumstances of hardship can include being on a pension or unemployed.

Financial hardship is a category within the broader concept of hardship. It denotes circumstances that a person cannot afford the necessities of life for themselves and/or dependants; or to be in a circumstance that paying rates and charges means that they would be unable to afford necessities of life for themselves and/or dependants.

Factors contributing to hardship generally include but are not limited to financial misfortune, serious physical and/or mental illness, family violence, impacts of natural disaster, and other serious or difficult circumstances. Each person's situation will be assessed on a case-by-case basis upon application under this Policy.

The property to which the rates or charges relate, must be the applicant's principal place of residence. Investment properties or second homes are not eligible for hardship or financial hardship assistance under this policy.

Long Term Financial Plan 2021 – 2031

Council's Long Term Financial Plan provides an overview of Council's financial position including ongoing provision of the delivery of services, and the approach to funding these services.

The plan outlines considerable allowance for road and drainage improvement projects in accordance with the URDI Policy 2024.