8 Reports Requiring Council Decision

8.1 The Esplanade (Sunderland Bay Road to Zephyr Court) - Notice of Declaration

Division	**Future Places**
Council Plan Strategic Objective	**Thriving Places** *Facilities and infrastructure meet current and future needs. Growth is sustainable and well planned. Our economy, agriculture, tourism and industries are resilient. Unique character is preserved.*

Declaration

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

Summary

The purpose of this report, following the decision made by Council at the meeting of Council held on 18 February 2026, and by way of recommendation, is to invite Council to first consider the written submissions and objections received by Council in response to the proposed declaration of the Special Charge for the proposed road and drainage upgrade project for The Esplanade (Sunderland Bay Road to Zephyr Court), Sunderland Bay (Scheme and Proposed Declaration of the Special Charge) and then for Council to proceed with the making of the Declaration of the Special Charge (Declaration of the Special Charge).

The proposed upgrade was initiated by a petition from property owners to address issues along this section of The Esplanade such as excessive dust, flash flooding, traffic speeds and safety and access concerns. A total of 18 (75%) submissions were received from the 24 affected property owners/occupiers in the Scheme, with 8 (33%) objecting to the Scheme.

A Committee of Council, previously established and appointed under section 223(1)(b)(i) of the *Local Government Act 1989* (Act) to hear persons who in their written submissions lodged with Council in relation to the proposed Scheme had requested that they be heard by Council (Committee), has recommended that the Scheme proceed unchanged.

If Council proceeds with the Declaration of the Special Charge, a property owner may apply to the Victorian Civil and Administrative Tribunal (VCAT) within 30 days of receiving the levy notice from Council.

Recommendation

That Council:

1. **Following consideration by Council of written submissions received under sections 163A and 223 of the *Local Government Act 1989* (Act) and taking account of written objections received under section 163B of the Act (as those submissions and objections are respectively summarised in Attachment AT-6 to this report hereby declares (in accordance with the form of the declaration set out in Attachment AT-4) a special charge under section 163 of the Act in relation to the construction and improvement of roads and drainage of The Esplanade (Sunderland Bay Road to Zephyr Court), Sunderland Bay to be known as 'The Esplanade (Sunderland Bay Road to Zephyr Court) Road and Drainage Upgrade Project' (Special Charge Scheme).**
2. **Directs that notice be given to all property owners included in the Scheme and all persons who lodged a written submission and/or an objection to the decision of Council in relation to the Declaration of Special Charge.**
3. **Specifies that the reasons for Council's decision are as follows –**
   - **(a) It is considered that there is only relatively moderate objection to the Scheme and that there is otherwise a broad level of support for the Special Charge from the property owners;**
   - **(b) It is considered that Council is acting in accordance with the functions and powers conferred on Council under the Act (and the *Local Government Act 2020*) having regard to the role, purposes and objectives of Council, particularly in relation to the provision of proper, safe and suitable road and drainage infrastructure and property services in the Scheme area;**
   - **(c) It is considered that all persons who are liable to pay the Special Charge and the properties respectively owned by them will receive a special benefit in the form of an enhancement or maintenance in land values and/or a maintenance or enhancement in the use, occupation and enjoyment of the properties;**
   - **(d) It is considered that the basis of the distribution of the Special Charge amongst the persons who are liable to pay the Special Charge is fair and reasonable;**
   - **(e) It is considered that the works proposed by the Scheme are consistent with policies and objectives set out in the Bass Coast Planning Scheme; and**

(f) It is considered that the works proposed under the Scheme are necessary, reasonable, not excessive, sufficient, suitable and not costly having regard to the locality or environment and to the probable use of the roads and the drainage in the area.

4. Directs that the Special Charge be levied on those persons who are liable to pay the Special Charge.

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.

At the March 2024 Council meeting, Council received a petition from property owners requesting a road and drainage upgrade project for The Esplanade between Sunderland Bay Road and Zephyr Court, Sunderland Bay.
At the June 2024 Council meeting, Council resolved to:

1. Proceed with the initiation of the upgrade project along The Esplanade between Sunderland Bay Road and Zephyr Court, Sunderland Bay.

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 (**Attachment AT-1**), Council completed 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. Property owners identified the need to address excessive dust, flash flooding, and reduced access and amenity in the proposed design.
At the 16 July 2025 Council Meeting, Council resolved to initiate the statutory process to declare a special charge scheme for the purpose of upgrading road and drainage infrastructure along The Esplanade, between Sunderland Bay Road and Zephyr Court, in Sunderland Bay.
At the 19 November 2026 Council Meeting, Council resolved not to proceed with the proposed Special Charge Scheme and to initiate a new statutory process by presenting a revised scheme at a future Council Meeting. This decision was made to ensure compliance with legislative requirements and to maintain fairness in the allocation of cost after a property within the Scheme area lodged an approved plan of subdivision, resulting in a change to the number of benefiting properties.

At the 18 February 2026 Council Meeting, Council resolved to:

1. *Adopt the concept option for the road and drainage upgrade project proposed for The Esplanade (Sunderland Bay Road to Zephyr Court)*
2. *Commence the statutory process under Section 163 of the Local Government Act 1989 (Act) to declare at the 15 July 2026 Council Meeting a Special Charge for the purpose of defraying the expenses and costs to be incurred by Council in relation to the project*
3. *Give public notice in the 'South Gippsland Sentinel Times' and the 'Phillip Island and San Remo Advertiser' of Council's intention to declare a Special Charge Scheme*
4. *Notify property owners referred to and set out in Schedule 2 of Council's Intention to Declare a Special Charge Scheme*
5. *Establish (if required) a Committee of Council to hear any persons who requested to be heard in support of their submission*
6. *Authorise 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 the Act*

Discussion

Council's resolution at the 18 February 2026 Council Meeting commenced the statutory process for the declaration of a Special Charge as outlined in section 163 of the Act.
In line with the requirements of the Act, public notice was given of Council's Intention to Declare the Special Charge. Property owners included in the Scheme, as identified in **Attachment AT-5** (Schedule 2), were informed of Council's Intention to Declare a Special Charge and of their right to make a submission and/or objection.
All written submissions received by Council under section 223 of the Act and all written objections lodged with Council under section 163B of the Act have been summarised in **Attachment AT-6** and copies of all submissions and objections have been provided to all Councillors with their agenda papers for this meeting.
There were 8 objections received from the 24 properties within the Scheme. This equates to 33%, which is considered a relatively moderate number of objections. There were 10 submissions of support for the road and drainage upgrade, which equates to support from 42% of properties. There were 2 requests to be heard by the Committee of the Council. Further details on the submissions and objections received, and the Committee of Council, are outlined in the stakeholder section below.
It is considered that the proposed improvements will provide benefit to property owners in the form of improved access and amenity, and reduced risk of flooding. As the number of objections received is below 50%, there is no legislative requirement preventing Council from proceeding with the Scheme (although notwithstanding this, Council may still decide not to proceed with the Scheme). It is therefore recommended that Council proceed with the Declaration of the Special Charge due to the relatively moderate number of objections and otherwise.

Following the Declaration of the Special Charge, Council must proceed to levy the Special Charge on those persons who are liable to pay the Special Charge within 12 months after the day on which the Declaration of the Special Charge is made.
A person aggrieved by the imposition of the Special Charge has a right to apply to the Victorian Civil and Administrative Appeals Tribunal (VCAT) for a review of the Special Charge.

Sustainability Implications

The proposed and preferred concept design option adopted by Council achieves a strategic balance between minimising cost to property owners and Council and improving road safety, accessibility, visual amenity, and reduced flood risk.

Investing in road and drainage infrastructure will position the community to better withstand current and future extreme weather events, strengthening the community's resilience to climate change impacts.

Road upgrades will generally follow the existing alignment of roads, while footpaths will be designed to avoid disruption to established vegetation. Due diligence reports are undertaken to ensure consideration is given to protecting local fauna and flora and to mitigate potential environmental impacts.

Finances

At the 18 February 2026 Council Meeting, Council resolved to commence the statutory process to declare the Special Charge.

The Special Charge provisions of the Act allow for costs to be equitably attributed to those persons who receive a special benefit from the works to be performed under the Scheme.

The estimated costs of the concept design option which was adopted by Council for the upgrade of roads and drainage along The Esplanade (Sunderland Bay Road to Zephyr Court) are as follows.

	Council Adopted Design Option
Total Project Cost	$1,849,550
Council 100% Contribution towards downstream drainage	$108,000
Total Scheme Cost	$1,741,550
Maximum Total Levy to be recovered from Property Owners	$524,033
Council Contribution to Scheme Cost	$1,217,517
Total Council Contribution	$1,325,517

As shown above, the remaining Council contribution to be made for this upcoming project is $1,325,517. Council's Long Term Financial Plan has an allowance for road and drainage improvement projects which is currently sufficient to accommodate these costs, with the delivery timing to be forecast as part of the 2027-28 Annual Budget Development.

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 to 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%.

The 'Benefit Ratio Statement' (**Attachment AT-2**) provides a full description about how the 'ratio' between the property owners' contribution and the Council's contribution has been calculated, and the basis on which this is being recommended to Council.

A full description of the proposed apportionment method amongst the property owners, including where discounts for various considerations are applied, is included in the 'Apportionment and Distribution Statement' (**Attachment AT-3**).

Stakeholders

In line with the requirements of the Act, public notices of Council's Intention to Declare the Special Charge were published in the 'South Gippsland Sentinel Times' on 24 February 2026 and in the 'Phillip Island and San Remo Advertiser' on 25 February 2026, and on Council's engagement website. The notices advised of Council's Intention to Declare the Special Charge and invited submissions and/or objections in relation to the proposal. Property owners included in the Scheme were informed of Council's Intention to Declare the Special Charge Scheme and their right to make a submission and/or an objection by way of a hard copy letter sent to them on 25 February 2026 to their preferred postal address as recorded in Council's database. A copy of this correspondence was sent to the preferred email of available property owners as recorded in Council's database.

Additionally, all property owners were sent a package of information including the following details:

- the overall cost of the project
- the amount of cost to be levied as a Special Charge
- the individual Special Charge for each property owner
- the cost to be borne by Council
- the timing of the proposed Special Charge

- the payment options of the Special Charge and
- instructions and requirements for submissions and/or objections to the proposed Special Charge

Details of the Proposed Declaration of the Special Charge were also provided on Council's engagement website and hardcopies of the Proposed Declaration of the Special Charge were also made available for inspection at customer service centers across the Shire.
Property owners and any other persons with an interest in the matter were required to return their submissions and/or objections to the Proposed Declaration of Special Charge by 15 April 2026. This provided 34 business days' notice and was otherwise in accordance with the requirements of the Act.
Property owners were provided with a template in which they could 'support' or 'object' to the Scheme and were provided with an area to submit written comments. Property owners were also able to make submissions by any other written method they chose. This template was also available to the broader public on Council's engagement website.
The details of individuals making a submission and/or objection were confirmed on receipt to ensure they matched the property owner's details as per Council's database. Council received a total of 18 formal submissions from 24 property owners.

There were 8 (33%) submissions of objection and 10 (42%) submissions of support from property owners to the proposed upgrade project. A total of 6 (25%) property owners did not provide any response. A summary of the responses from property owners is shown in Figure 1 below.

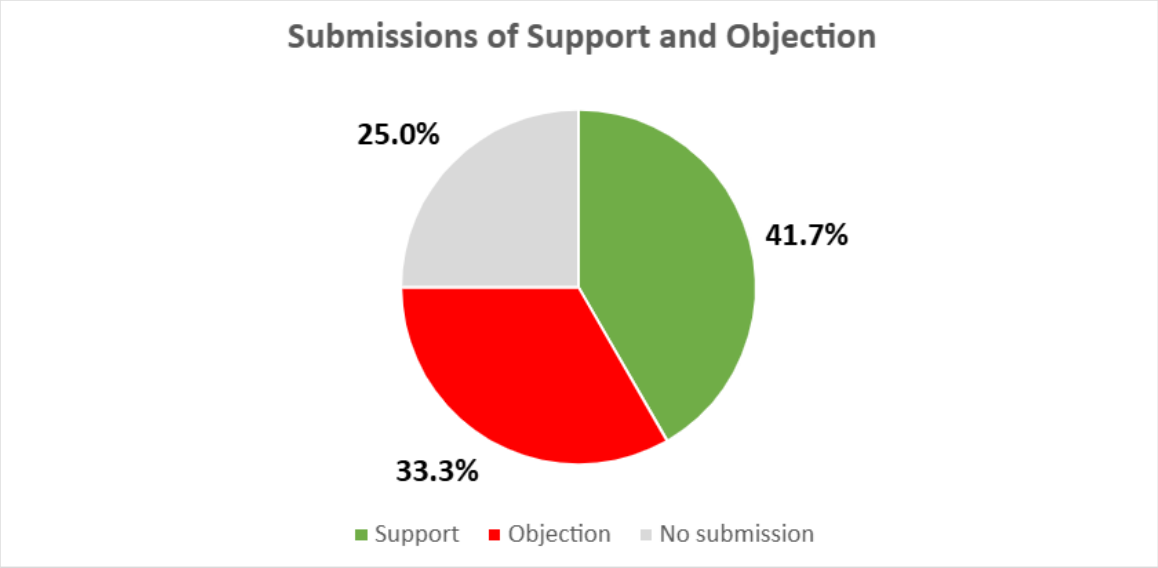


Figure 1: percentage breakdown of submissions of support and objection received from property owners

A summary of feedback received has been provided in **Attachment AT-7**. Copies of all written submissions and objections received by Council under sections 223 and 163B of the Act have been provided to all Councilors with their agenda papers for this meeting **(Attachment AT-6)**.

Committee of Council

There were 2 requests to be heard by the Committee of the Council. As previously established and appointed under section 223(1)(b)(i) of the *Local Government Act 1989* (Act), the Committee of Council heard submitters who wished to speak in support of their submissions on 6 May 2026. The Committee consisted of the Mayor, Cr Brett Tessari, and Island Ward Councillors, Cr Ron Bauer, Cr Tim O'Brien and Cr Tracey Bell. Councillors are referred to the report of the proceedings of the Committee, which also includes for Council's consideration a summary of the hearings and other relevant comment by way of recommendation on all of the written submissions and objections received, which is attached to this Report (**Attachment AT-8**). Having considered all written submissions and objections received, the Committee of Council has recommended that the Scheme proceed unchanged. There are various other stakeholders that would need to be considered as part of any potential road and drainage upgrade of The Esplanade (Sunderland Bay Road to Zephyr Court), Sunderland Bay.

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;
- 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

In accordance with the Act, property owners within the Special Charge Scheme area were provided with the opportunity to formally support or object to the proposed upgrade project. The submissions received indicate property owner support with only 8 objections made, representing 33% of property owners.

As the number of objections received is below 50%, it is recommended that Council continue the formal statutory scheme process by resolving to declare the Special Charge Scheme for the purpose of improving road and drainage infrastructure along The Esplanade, between Sunderland Bay and Zephyr Court, in accordance with the above recommendations.

The proposed project, if declared, will permanently resolve dust, flooding and traffic safety concerns along this section of The Esplanade in Sunderland Bay.

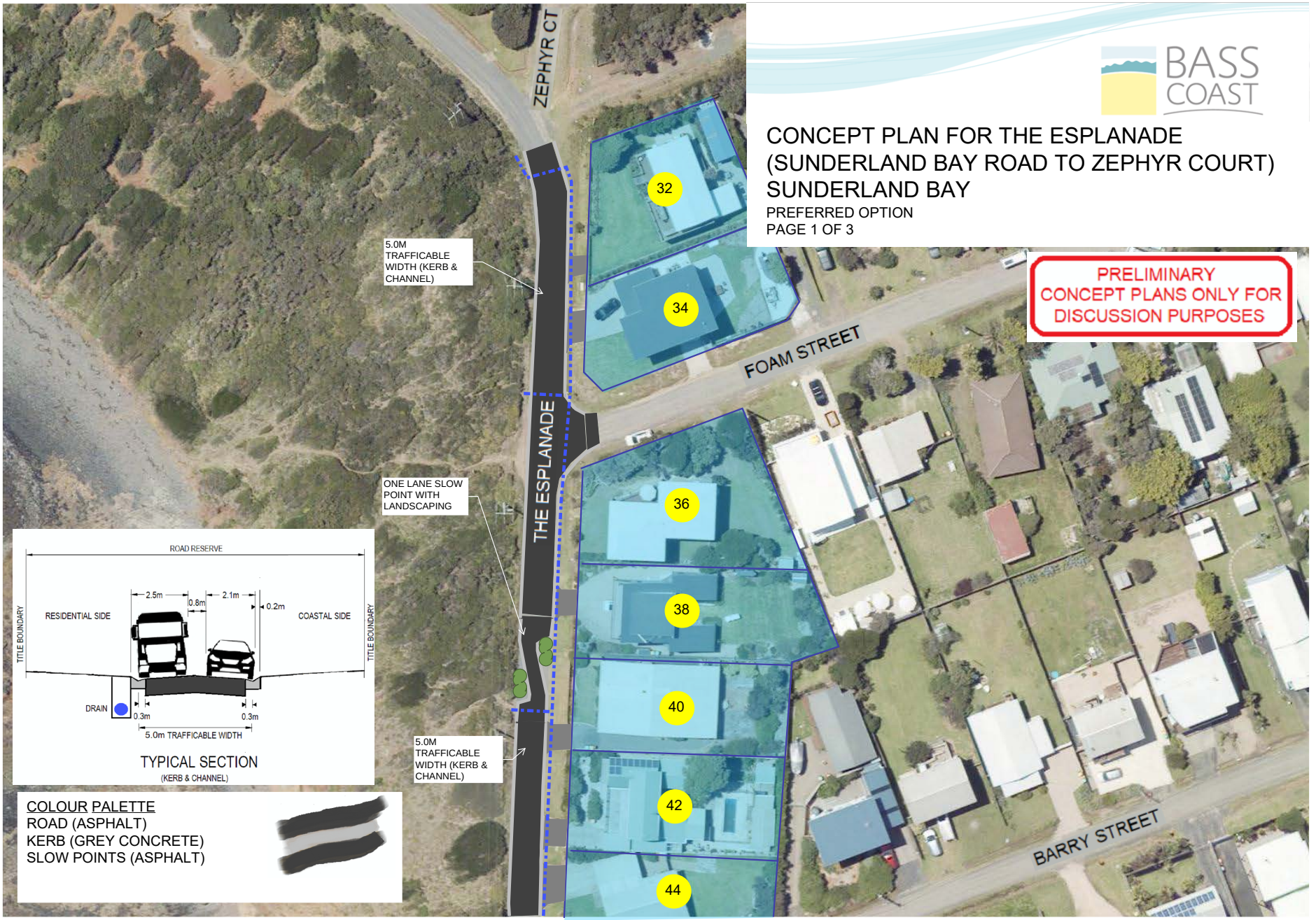
Governing Documents

There are 9 governing documents listed below that are related to this proposed upgrade project.

- Local Government Act 1989
- Local Government Act 2020
- Council Plan 2025-29
- 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 2025-2035

Attachments

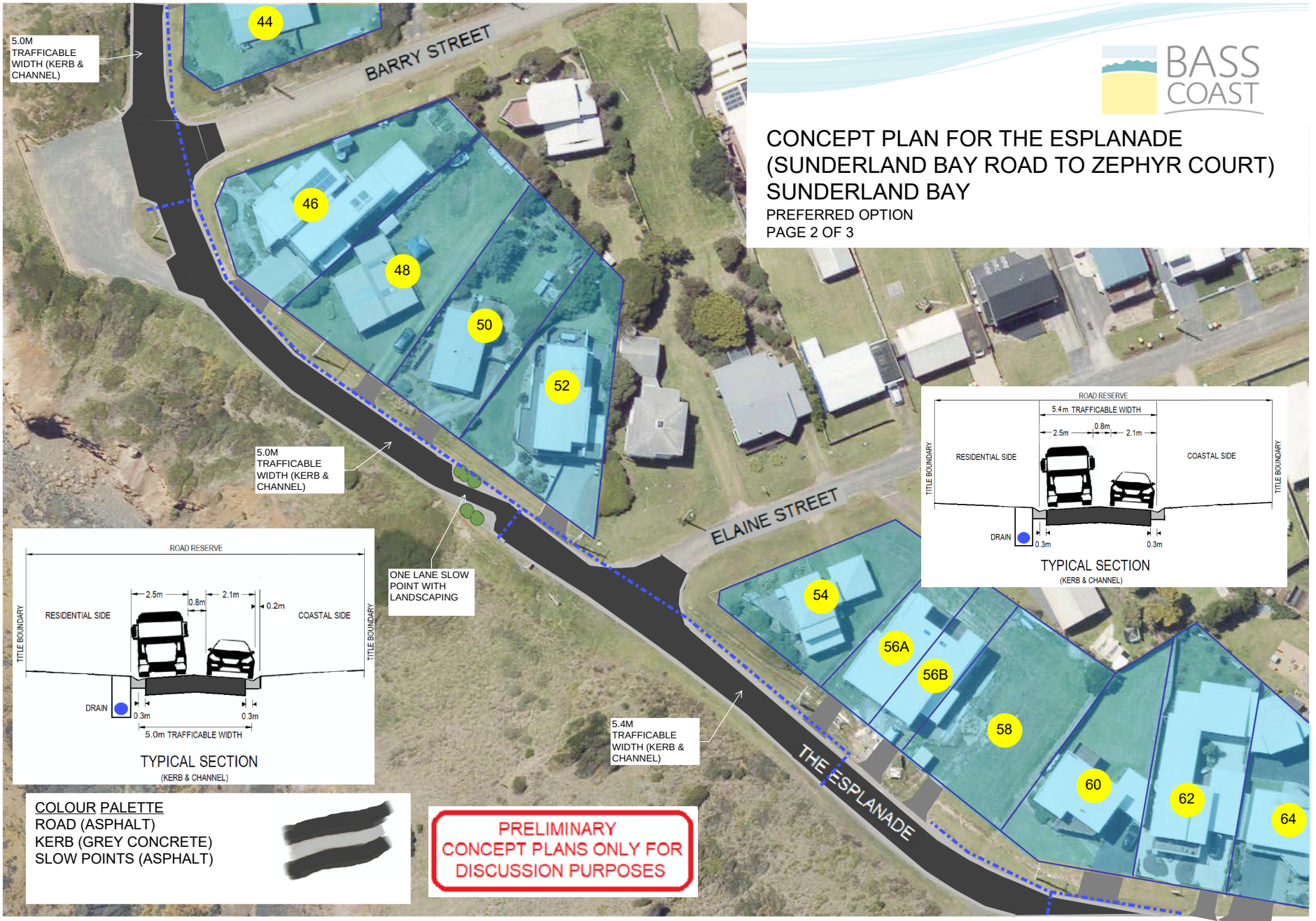
1. A T-1 Concept Plan [**8.1.1** - 3 pages]
2. A T-2 Benefit Ratio [**8.1.2** - 18 pages]
3. A T-3 Apportionment and Distribution Statement [**8.1.3** - 15 pages]
4. A T-4 Schedules 1 and 2 [**8.1.4** - 3 pages]
5. AT-4 Declaration of Special Charge [**8.1.5** - 3 pages]
6. A T-5 Governing Documents [**8.1.6** - 7 pages]
7. CONFIDENTIAL REDACTED - A T-6 Combined Submissions and Objections [**8.1.7** - 56 pages]
8. A T-7 Submissions and Objections Summary [**8.1.8** - 3 pages]
9. A T-8 Final Report - Committee of Council - The Esplanade [**8.1.9** - 5 pages]

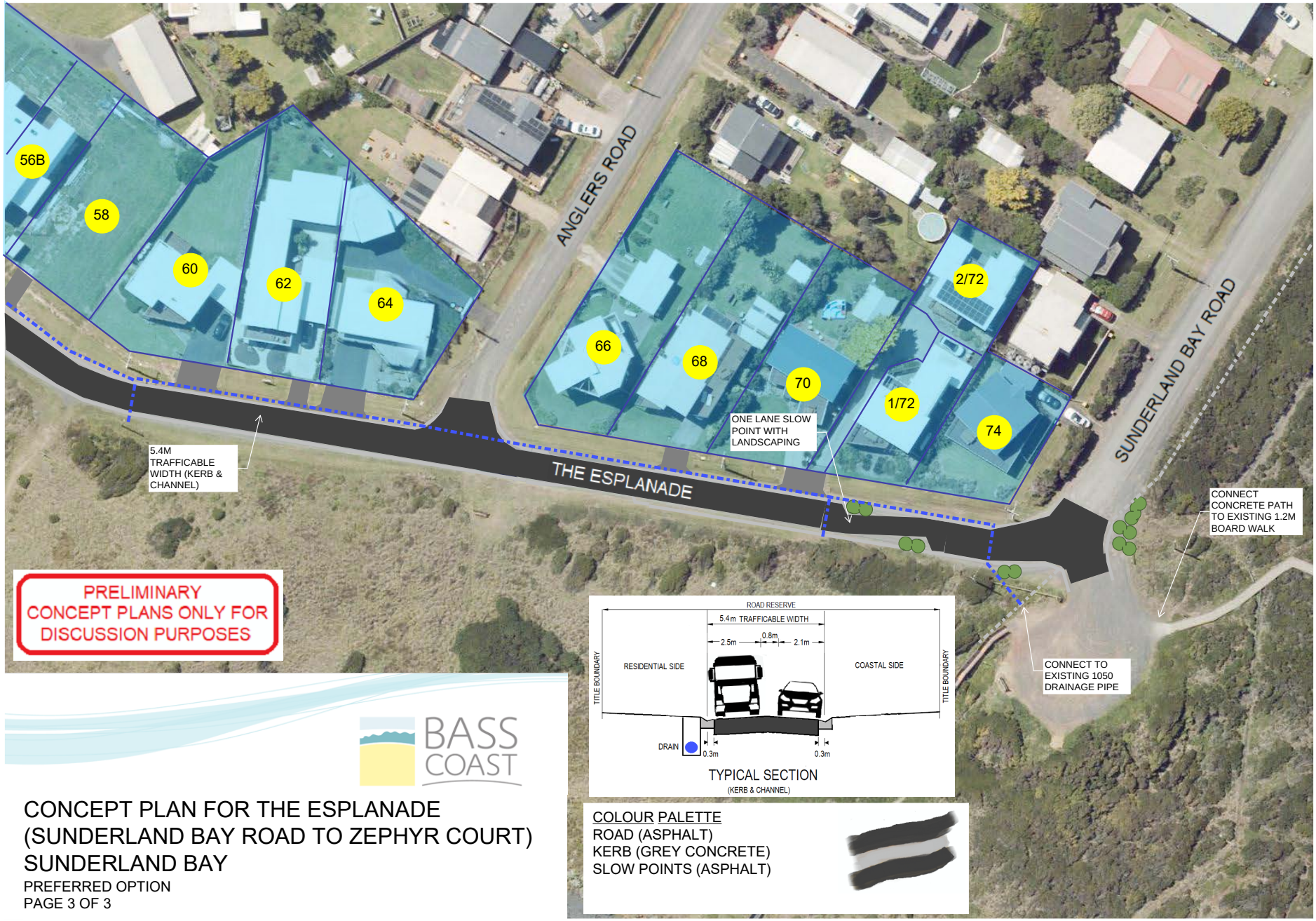


CONCEPT PLAN FOR THE ESPLANADE (SUNDERLAND BAY ROAD TO ZEPHYR COURT) SUNDERLAND BAY

PREFERRED OPTION

PAGE 1 OF 3


BASS COAST
CONCEPT PLAN FOR THE ESPLANADE (SUNDERLAND BAY ROAD TO ZEPHYR COURT) SUNDERLAND BAY
PREFERRED OPTION
PAGE 2 OF 3
5.0M TRAFFICABLE WIDTH (KERB & CHANNEL)
BARRY STREET
44
46
48
50
52
5.0M TRAFFICABLE WIDTH (KERB & CHANNEL)
ELAINE STREET
ONE LANE SLOW POINT WITH LANDSCAPING
54
56A
56B
58
60
62
64
5.4M TRAFFICABLE WIDTH (KERB & CHANNEL)
THE ESPLANADE
ROAD RESERVE
5.4m TRAFFICABLE WIDTH
2.5m
0.8m
2.1m
RESIDENTIAL SIDE
COASTAL SIDE
TITLE BOUNDARY
TITLE BOUNDARY
DRAIN
0.3m
0.3m
TYPICAL SECTION
(KERB & CHANNEL)
ROAD RESERVE
2.5m
0.8m
2.1m
0.2m
RESIDENTIAL SIDE
COASTAL SIDE
TITLE BOUNDARY
TITLE BOUNDARY
DRAIN
0.3m
0.3m
5.0m TRAFFICABLE WIDTH
TYPICAL SECTION
(KERB & CHANNEL)
COLOUR PALETTE
ROAD (ASPHALT)
KERB (GREY CONCRETE)
SLOW POINTS (ASPHALT)
PRELIMINARY CONCEPT PLANS ONLY FOR DISCUSSION PURPOSES



CONCEPT PLAN FOR THE ESPLANADE
(SUNDERLAND BAY ROAD TO ZEPHYR COURT)
SUNDERLAND BAY

PREFERRED OPTION
PAGE 3 OF 3

Benefit Ratio Statement
The Esplanade (Sunderland Bay to Zephyr Court) Upgrade
Special Charge Scheme

Benefit Ratio Statement

The Esplanade (Sunderland Bay Road to Zephyr Court) – Road and Drainage Upgrade

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 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 and the drainage network, and the provision of nature strip works and ancillary works, in the scheme area (**Scheme** and **Special Charge**).

The Scheme area and its boundaries have been chosen to only include properties on the northern side of The Esplanade (between Sunderland Bay Road to Zephyr Court) Sunderland Bay and it does not include the land on the southern side of The Esplanade, along the foreshore. This is because it is considered that only the northern properties (being privately owned rateable land) and not the southern land (being publicly owned coastal reserve land managed by Phillip Island Nature Parks

(PINP) and Department of Energy, Environment and Climate Action (DEECA)) will receive a relevant special benefit from the Scheme works. While the southern foreshore land may receive some form of direct and tangible benefit from the works, any such benefit is considered to be wholly marginal and inconsequential and would not relevantly constitute a special benefit. It is therefore considered that this land should not be included in the Scheme area and boundaries as special benefit land and otherwise treated as TSB (out) land.

The Esplanade (between Sunderland Bay Road and Zephyr Court) Sunderland Bay is one of the highest priorities within the Council's Urban Road and Drainage Improvement (URDI) Policy. This section of The Esplanade has a history of dust, flooding and traffic safety issues over many years. These include but are not limited to the following:

- dust generated by traffic along unsealed roads contributing to reducing 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 this section of The Esplanade 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 the improvement works would include but is 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 adjacent properties

B. Ensure Coherence

It is considered that the proposed road and drainage improvement works located along The Esplanade (between Sunderland Bay Road to Zephyr Court) 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 controlled 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)**	**$1,849,550**
LESS separate Council contribution for downstream drainage works	**$108,000**
Total Scheme Costs **Benefit Ratio** **Maximum Total Levy Amount** **Council Contribution (%)** **Council Contribution ($)**	**$1,741,550** **0.3009** **$524,033** **69.91%** **$1,217,517**
Total Council Liability	**$1,325,517**

Benefit Ratio Statement

BASS COAST

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.

Benefit Ratio Statement



Figure 1 – Scheme Boundary

As already noted, only the 24 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. The driveway portion of 1/72 and 2/72 is common property and has therefore been divided between both properties in respect to 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.

Benefit Ratio Statement

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

The property at 74 The Esplanade shares a boundary with Sunderland Bay Road, which is a sealed road. This property will not receive the same level of road improvement benefits as other properties within the Scheme. This property 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 property will be given a 'discounted' road benefit charge at the distribution/apportionment stage.

The property at 54 The Esplanade shares a boundary with Elaine Street and will not receive the same level of road improvement benefits as other properties within the Scheme. This property 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 property will be given a 'discounted' road benefit charge at the distribution/apportionment stage.

The two properties at 64 The Esplanade and 66 The Esplanade share a boundary with Anglers Road and they 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 property will be given a 'discounted' road benefit charge at the distribution/apportionment stage.

The two properties at 44 The Esplanade and 46 The Esplanade share a boundary with Barry Street and they 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 property will be given a 'discounted' road benefit charge at the distribution/apportionment stage.

The two properties at 34 The Esplanade and 36 The Esplanade share a boundary with Foam Street and they 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 property 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, and as already noted, the land on the southern side of the Scheme area (being publicly owned coastal reserve managed by Phillip Island Nature Parks (PINP) and Department of Energy, Environment and Climate Action (DEECA)) will not receive a special benefit from the Scheme works. While the southern side publicly owned land may receive some form of direct and tangible benefit from the works, any such benefit would be wholly marginal and inconsequential and would not relevantly constitute a special benefit. It is therefore considered that this land should not be included in Scheme area and boundaries as special benefit land, and that any benefits to the public land arising from the works (because they would be enjoyed by people in the broader community) should properly be treated as community benefits. For these reasons, the southern public land should not be included as TSB (out) properties.

On this basis, no property is 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 24 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
24 Rateable Residential Properties @ 0.5 BU each		12.0
24 Rateable Residential Properties @ 0.5 BU each	12.0	

Benefit Ratio Statement

Total TSB (in)	**24.0**

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 = 24 + 0 = 24

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 The Esplanade for external wider community traffic (i.e. tourist traffic accessing coastal carparks and traffic generated by other properties within the 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.
4. The future use of drainage pipes by property owners outside of the Scheme area that requires pipe sizes to be increased.

Benefit Ratio Statement

5. The publicly owned coastal reserve managed by Phillip Island Nature Parks (PINP) and Department of Energy, Environment and Climate Action (DEECA)) possibly receiving some tangible and direct benefits for people in the broader community.

On this basis, it is generally considered that people in the broader community will receive significant 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 follow:

- There will be some improvement in public coastal access for the wider community and 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 on the ocean side drainage outfalls.
- There will be some improvement in future drainage capacity when other areas are connected.
- There will be some improved access to the publicly owned coastal reserve managed by Phillip Island Nature Parks (PINP) and Department of Energy, Environment and Climate Action (DEECA).

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 The Esplanade will continue to use The Esplanade as a main through-local road following the proposed road and drainage upgrade.

To assess the likely number of persons who are not accessing or servicing the 24 properties included in the Scheme, a community survey, Census data 2021, carparking surveys, traffic count data and aerial data 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 vehicle 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 is within a reasonable level of the assumed amount of traffic being generated by the 24 private properties.

Multiplying the 4.9 and 6.5 vehicle trips per property by the 24 properties along The Esplanade equates to 118 and 156 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

Benefit Ratio Statement

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	24	13,642
Off peak (veh/day)	6.5	249	24	38,844
			Total	**52,486**

Table 3: Vehicle trips per year generated by private properties

The amount of **52,486** vehicle trips per year will be used as a reference related to the 12.0 Benefit Units being generated by the road works for the private properties.

There are a number of beach / coastal carpark access points along The Esplanade that are utilised by tourists and Surf Beach and Sunderland Bay property owners that generate traffic along The Esplanade (Sunderland Bay Road to Zephyr Court) and other connecting streets, including in relation to the entire section of the public foreshore fronting the Scheme area, including the publicly owned coastal reserve managed by Phillip Island Nature Parks (PINP) and Department of Energy, Environment and Climate Action (DEECA).

These are shown in Figure 2.

Benefit Ratio Statement

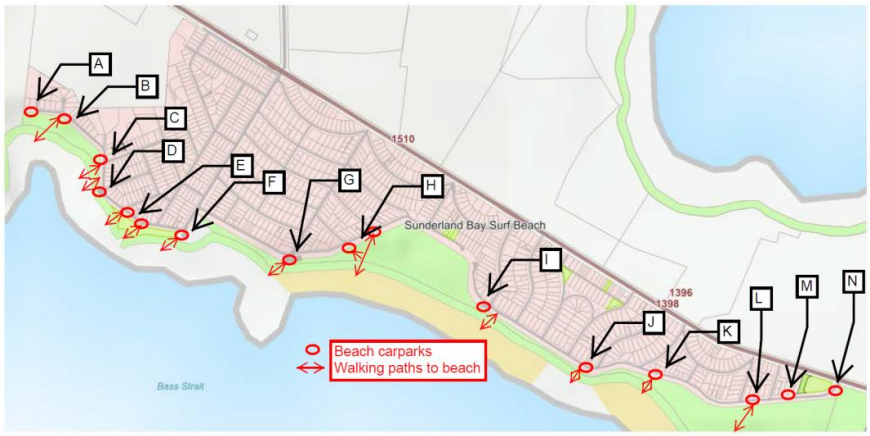


Figure 2 – Beach carparks along The Esplanade

There are also many other properties within Surf Beach and Sunderland Bay estates that may generate traffic along The Esplanade (between Sunderland Bay Road and Zephyr Court) from outside of the proposed Scheme. This is shown in Figure 3 below:



Figure 3 –Map of properties within Surf Beach and Sunderland Bay estates that may generate traffic from outside of the scheme boundaries along The Esplanade (Sunderland Bay Road to Zephyr Court)

Traffic count data undertaken shows the following along The Esplanade (Sunderland Bay Road and Zephyr Court). This is shown in Figure 4.

Benefit Ratio Statement

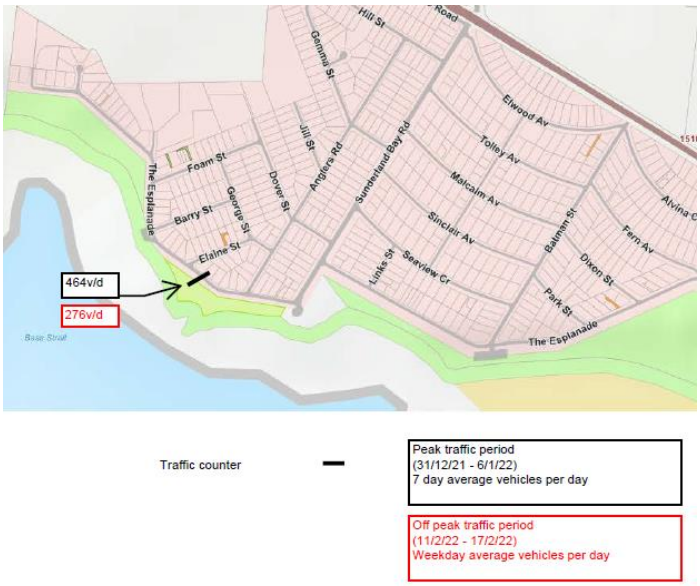


Figure 4 –Traffic count data along The Esplanade

In peak periods of traffic, it is estimated that there are 464 vehicles trips per along this section of The Esplanade. It is estimated that 118 of these trips are generated from properties within the proposed Scheme boundaries during peak times. Subtracting 118 from 464, it is estimated that the remaining 346 vehicle trips are generated from traffic outside of the Scheme boundaries (either from tourist traffic accessing beach carparks or from other traffic within Surf Beach and Sunderland Bay).

In off-peak periods of traffic, it is estimated that there are 276 vehicles trips per along this section of The Esplanade. It is estimated that 156 of these trips are generated from properties within the proposed Scheme boundaries during peaks times. Subtracting 156 from 276, it is estimated that the remaining 120 vehicle trips are generated from traffic outside of the Scheme boundaries (either from tourist traffic accessing beach carparks or from other traffic within Surf Beach and Sunderland Bay).

It is also estimated that if The Esplanade (Sunderland Bay Road and Zephyr Court) is sealed, there may likely be more wider community traffic utilise this road for access to coastal carparks (A to E in Figure 2).

There may also be more usage of this section of The Esplanade by other property owners within the Surf Beach and Sunderland Bay estates outside of the Scheme due to potential preference to use a sealed road instead of a gravel road.

There is a network of connected streets in the vicinity of The Esplanade, such as Dover Street, Anglers Road, George Street, Elaine Street, Barry Street and Foam Street, that may have some traffic dynamic shifts to use The Esplanade as a preferable route to access properties due to it being sealed.

Benefit Ratio Statement

It has been allowed that a conservative amount of 100% of the wider community traffic using other streets may shift to use The Esplanade until those roads are also sealed.

There may also be additional tourist traffic attracted to use the carparks if the road is fully sealed to the carparks along The Esplanade. The capacity of coastal access carparks (A to E) is approximately 22 vehicles. It is noted there are times in which overflow of vehicles onto The Esplanade occur at these carparks. During peak periods the coastal access carparks A to E vary from 0 to 7 (32%) vehicles. During off-peak periods the coastal access carparks A to E typically have no usage.

A conservative allowance (but otherwise 'generous' amount) of a 50% increase has been allowed for the wider community traffic using The Esplanade for potential additional use of the coastal access carparks A to E.

The resulting vehicles trips per year generated by the wider community (tourist traffic accessing the beach carparks or 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**	**Increase additional coastal carpark usage**	**Days**	**Vehicle trips per year**
Peak veh/day	346	100%	50%	116	100,340
Off peak (veh/day)	120	100%	50%	249	74,700
				Total	**175,040**

Table 4: Vehicle trips per year generated by beach carparks / access

Based on a pro-rata approach, the amount of Benefit Units to be adopted for improvement in public beach access and wider community benefits will be 175,040/52,486 x 12.0 BU = 40.0 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 1.0 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 12.0 BU. This is approximately 8% (1.0/12.0) 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 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 1.0 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 12.0 BU. This is approximately 8% (1.0/12.0) of the Scheme drainage benefits and is considered to be reasonable.

There will be an improvement in terms of future drainage capacity for some properties within Sunderland Bay that are outside of the proposed Scheme boundaries. These properties will not receive the benefit until the streets adjacent to those properties are upgraded in the future. There are 47 properties that will receive this benefit, and these are shown in Figure 5 below. 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 0.25 BU for each property be allowed for this benefit which again is considered to be (at best) a minor benefit. There are also two carparks which will receive a similar benefit when the drainage is upgraded. A conservative amount of 1.0 BU has been allowed for each future carpark connection. In total the future drainage benefits to be allowed are (47 x 0.25BU) + (2 x 1.0 BU) = 13.75 BU.



Figure 5 – Future drainage capacity improvements

Benefit Ratio Statement

The total community benefits are shown in the table below:

Total Community Benefits (TCB)	
External wider community traffic	40.0
Sealing of the roads resulting in better water quality	1.0
Reduced risk of sewage overflows	1.0
Future drainage capacity	13.75
Total TCB	**55.75**

H. Calculating the Benefit Ratio

The Benefit Ratio is calculated as:

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

$$R = \frac{24}{24 + 0 + 55.75} = \frac{24}{79.75}$$

Benefit Ratio = 0.3009

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:

Benefit Ratio Statement

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)
0.3009 x $1,741,550.40 **= $524,032.51**

Apportionment and Distribution Statement

The Esplanade (Sunderland Bay Road to Zephyr Court), Sunderland Bay Special Charge Scheme

Attachments

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.

The Esplanade (Sunderland Bay Road to Zephyr Court), Sunderland Bay has a history of dust, flooding and safety issues over many years. These include but are not limited to the following:

- dust generated by traffic along unsealed roads contributing to reducing 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

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.

Attachments

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	**$1,849,550**
LESS Downstream Drainage Works	**$108,000**
Total Scheme Costs	**$1,741,550**
Benefit Ratio	**0.3009**
Maximum Levy Amount	**$524,033**
Council Contribution (%)	**69.91%**
Council Contribution ($)	**$1,217,517**
Total Council Liability	**$1,325,517**

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 24 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 include:

- 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.

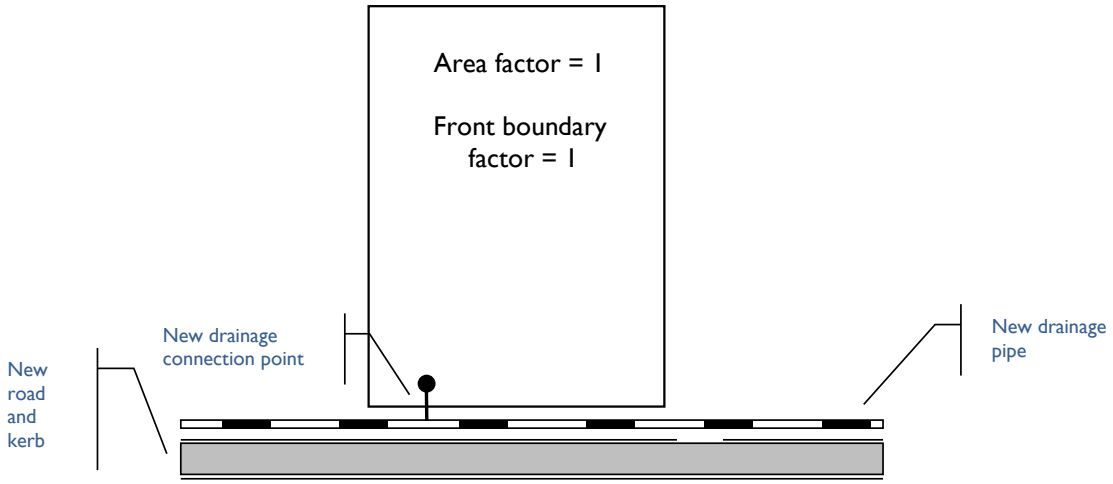
Consideration A has been considered the most fair and equitable option amongst all properties as costings resulted in being more evenly spread throughout, while still considering all the various factors.

Attachments

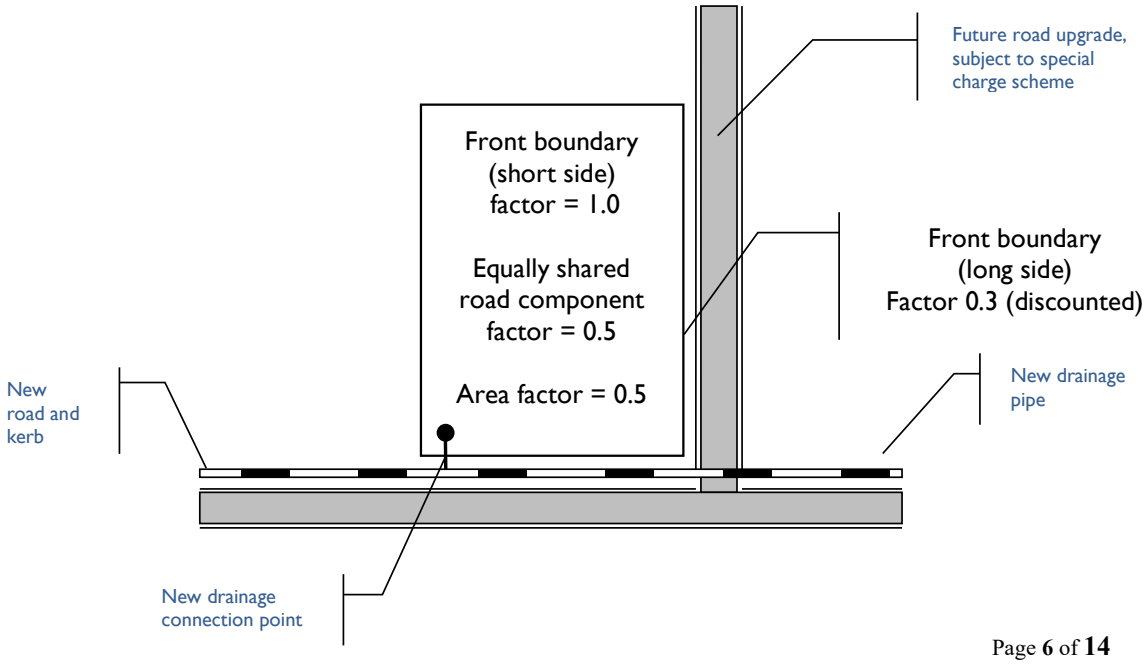
A detailed list of distribution of costs compared is outlined in Table 3.

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

Standard property (no adjustment)

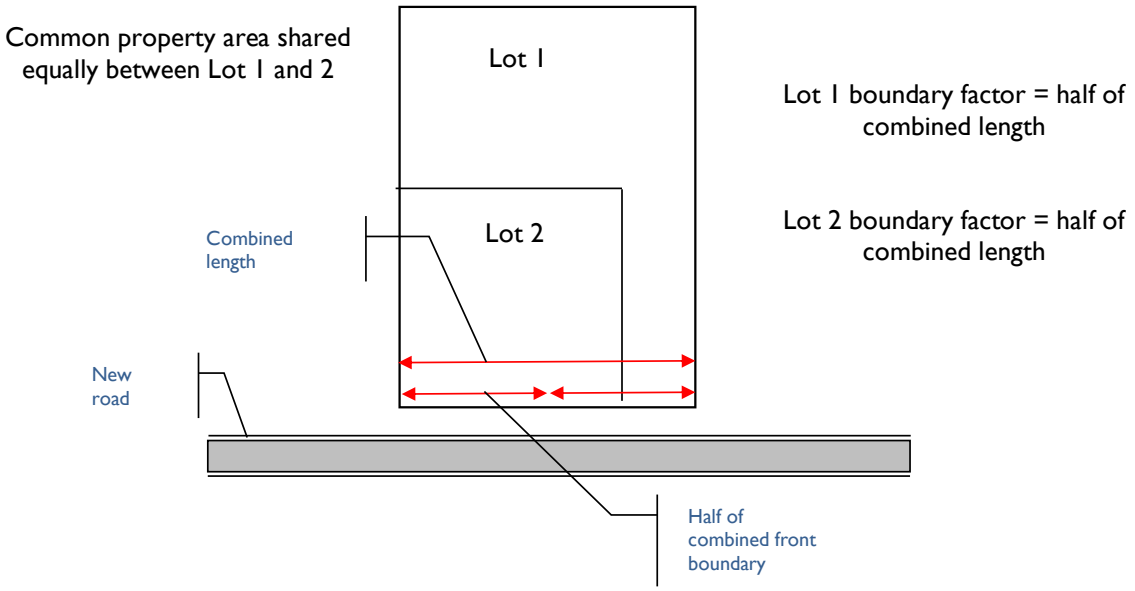


Corner Property (short boundary) next to potential future special charge scheme



Attachments

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.

Attachments

Adjustment for future special charge scheme

There are 8 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 1 and shown in Figures 1 below:

34 The Esplanade
36 The Esplanade
44 The Esplanade
46 The Esplanade
54 The Esplanade
64 The Esplanade
66 The Esplanade
74 The Esplanade

Table 1: List of properties with potential for future special charge schemes

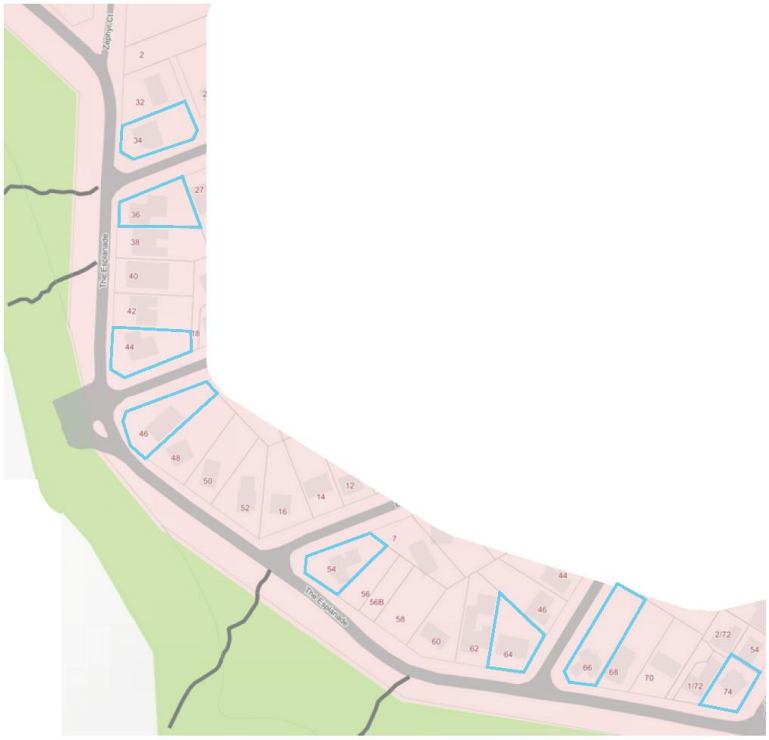


Figure 1: Properties with potential for future special charge schemes

Attachments

B. 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 1/72 The Esplanade or 2/72 The Esplanade (both 8.22m) and the property with the smallest area is 56B The Esplanade (274 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

Attachments

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 = 20

The road component cost is $281,365.63

1 RSESRI BU = 75% x $281,365.63/ 20

= $10,551.21

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 = 49.5159

The road component cost is $281,365.63

1 RSBRI BU = 25% x $281,365.63/ 49.5159

= $1,420.58

Attachments

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 = 40.3374

The drainage component cost is $242,666.88

1 DRI BU = $242,666.88/ 40.3374

= $6,015.93

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

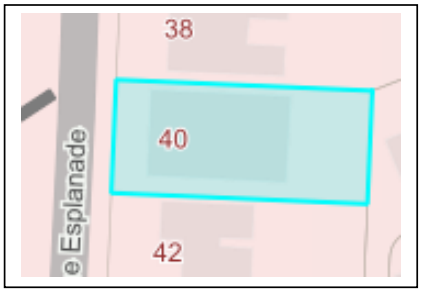
Attachments

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 (40 The Esplanade)



Property Information
Front boundary = 16.15m
Area = 591m2

Benefit Units for the Property
Road Related Infrastructure
RSESRI BU = 1.0000
RSBRI BU = 16.15/8.22 = 1.9647

Drainage Related Infrastructure
DRI BU = 591 / 274 = 2.1569

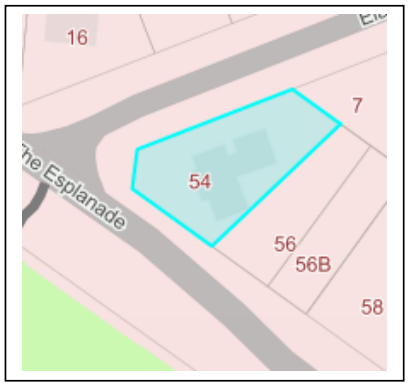
Property Charge for Road and Drainage related infrastructure
Road Related Infrastructure
RSESRI BU x $10,551.21 = 1.0000 x $10,551.21 = $10,551.21
RSBRI BU x $1,420.58= 1.9647 x $1,420.58 = $2,791.01

Drainage Related Infrastructure
DRI BU x $6,015.93 = 2.1569 x $6,015.93 = $12,975.76
Total property charge = $26,317.98

Attachments

Corner Property (54 The Esplanade) with potential for future special charge scheme

Property Information
Front boundary = 21.67m
Side boundary = 34.19m
Adjusted side boundary = 0.3 x 34.19 = 10.26m
Area = 561m2



Benefit Units for the Property
Road Related Infrastructure
RSESRI BU = 0.5 x 1.0000 = 0.5000
RSBRI BU = 21.67/8.22 = 2.6363

Drainage Related Infrastructure
DRI BU = 0.5 x 561 / 274 = 1.0237

Property Charge for Road and Drainage related infrastructure
Road Related Infrastructure

RSESRI BU x $10,551.21 = 0.5 x $10,551.21 = $5,275.61
RSBRI BU x $1,420.58 = 2.6363 x $1,420.58 = $3,745.08

Drainage Related Infrastructure
DRI BU x $6,015.93 = 1.0237 x $6,015.93 = $6,158.51

Total property charge = $15,179.19

Attachments

Table 3: Distribution of Costs

Property Address	Legal Description	Consideration A	Consideration B	Consideration C	Consideration D
32 The Esplanade	LOT 229 LP 56246	$ 27,609.01	$ 28,173.98	$ 28,738.95	$ 29,303.93
34 The Esplanade	LOT 228 LP 56246	$ 14,317.65	$ 15,244.72	$ 16,171.80	$ 17,098.87
36 The Esplanade	LOT 227 LP 56246	$ 13,773.78	$ 13,861.01	$ 13,948.24	$ 14,035.46
38 The Esplanade	LOT 211 LP 56246	$ 26,995.13	$ 26,111.82	$ 25,228.51	$ 24,345.20
40 The Esplanade	LOT 210 LP 56246	$ 26,317.98	$ 25,591.93	$ 24,865.88	$ 24,139.83
42 The Esplanade	LOT 209 LP 56246	$ 26,317.98	$ 25,591.93	$ 24,865.88	$ 24,139.83
44 The Esplanade	LOT 208 LP 56246	$ 16,107.96	$ 18,298.36	$ 20,488.76	$ 22,679.16
46 The Esplanade	Lot 199 54853 SP 0	$ 17,165.39	$ 19,535.50	$ 21,905.60	$ 24,275.70
48 The Esplanade	LOT 198 LP 54853	$ 29,783.74	$ 29,954.64	$ 30,125.55	$ 30,296.45
50 The Esplanade	LOT 197 LP 54853	$ 26,446.48	$ 25,563.17	$ 24,679.86	$ 23,796.55
52 The Esplanade	LOT 196 LP 54853	$ 28,882.28	$ 30,105.69	$ 31,329.10	$ 32,552.51
54 The Esplanade	LOT 183 LP 54853	$ 15,179.19	$ 17,165.74	$ 19,152.28	$ 21,138.83
56A The Esplanade	Lot 1 907504	$ 19,611.97	$ 18,305.33	$ 16,998.69	$ 15,692.04
56B The Esplanade	Lot 2 907504	$ 18,044.69	$ 16,005.16	$ 13,965.64	$ 11,926.12
58 The Esplanade	LOT 181 LP 54853	$ 26,556.15	$ 26,200.02	$ 25,843.89	$ 25,487.76
60 The Esplanade	LOT 180 LP 54853	$ 27,596.45	$ 28,280.61	$ 28,964.77	$ 29,648.93
62 The Esplanade	LOT 179 LP 54853	$ 26,446.48	$ 25,563.17	$ 24,679.86	$ 23,796.55
64 The Esplanade	LOT 178 LP 54853	$ 14,566.75	$ 15,644.26	$ 16,721.78	$ 17,799.29
66 The Esplanade	LOT 164 LP 54853	$ 16,026.99	$ 16,786.43	$ 17,545.88	$ 18,305.33
68 The Esplanade	LOT 163 LP 54853	$ 28,013.59	$ 27,335.98	$ 26,658.37	$ 25,980.75
70 The Esplanade	LOT 162 LP 54853	$ 26,527.82	$ 25,967.70	$ 25,407.57	$ 24,847.44
1/72 The Esplanade	Lot 1 PS635143	$ 19,788.29	$ 17,691.80	$ 15,595.31	$ 13,498.82
2/72 The Esplanade	Lot 2 PS635143	$ 19,700.46	$ 17,603.97	$ 15,507.48	$ 13,410.99
74 The Esplanade	LOT 1 PS 504625Y	$ 12,256.30	$ 13,449.59	$ 14,642.89	$ 15,836.18

Schedule 1: Scheme Boundary



Schedule 2:
The Esplanade (Sunderland Bay Road to Zephyr Court)
Special Charge Scheme Estimate of Cost

Property Address	Legal Description	Estimated Cost
32 The Esplanade	LOT 229 LP 56246	$27,609.01
34 The Esplanade	LOT 228 LP 56246	$14,317.65
36 The Esplanade	LOT 227 LP 56246	$13,773.78
38 The Esplanade	LOT 211 LP 56246	$26,995.13
40 The Esplanade	LOT 210 LP 56246	$26,317.98
42 The Esplanade	LOT 209 LP 56246	$26,317.98
44 The Esplanade	LOT 208 LP 56246	$16,107.96
46 The Esplanade	Lot 199 54853 SP 0	$17,165.39
48 The Esplanade	LOT 198 LP 54853	$29,783.74
50 The Esplanade	LOT 197 LP 54853	$26,446.48
52 The Esplanade	LOT 196 LP 54853	$28,882.28
54 The Esplanade	LOT 183 LP 54853	$15,179.19
56A The Esplanade	LOT 1 907504	$19,611.97
56B The Esplanade	LOT 2 907504	$18,044.69
58 The Esplanade	LOT 181 LP 54853	$26,556.15
60 The Esplanade	LOT 180 LP 54853	$27,596.45
62 The Esplanade	LOT 179 LP 54853	$26,446.48

Schedule 2:
The Esplanade (Sunderland Bay Road to Zephyr Court)
Special Charge Scheme Estimate of Cost
Continued

Property Address	Legal Description	Estimated Cost
64 The Esplanade	LOT 178 LP 54853	$14,566.75
66 The Esplanade	LOT 164 LP 54853	$16,026.99
68 The Esplanade	LOT 163 LP 54853	$28,013.59
70 The Esplanade	LOT 162 LP 54853	$26,527.82
1/72 The Esplanade	LOT 1 PS635143	$19,788.29
2/72 The Esplanade	LOT 2 PS635143	$19,700.46
74 The Esplanade	LOT 1 PS 504625Y	$12,256.30

(AT-4) - ATTACHMENT 4

DECLARATION OF SPECIAL CHARGE FOR THE PURPOSE OF CONSTRUCTING AND IMPROVING ROADS AND DRAINAGE ALONG THE ESPLANADE (SUNDERLAND BAY ROAD TO ZEPHYR COURT), SUNDERLAND BAY

1. Bass Coast Shire Council (**Council**) at the 15 July 2026 Council Meeting declares 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 The Esplanade (Sunderland Bay Road to Zephyr Court), Sunderland Bay 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 'The Esplanade (Sunderland Bay Road to Zephyr Court) Special Charge Scheme' otherwise in accordance with the concept plans approved by Council at the 18 February 2026 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 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 this 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 declaring 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 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 is declaring) is an amount of **$1,741,550** (being the estimated cost of the Scheme works to be undertaken) with Council declaring and levying by way of the Special Charge an amount of **$524,033**, but excluding other related costs (which will be borne solely by Council) totalling **$108,000** for downstream drainage works.

6. The Special Charge will commence immediately following the date of this declaration 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 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 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 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. 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. 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.

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 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. 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 0.3009 or 30.09%.

14. This 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 February 2026 Council meeting, giving at least 28 days prior notice to declaring a scheme.	Completed	18 February 2026
Advertise and place a copy of the proposed declaration on display for at least 28 days after the publication of the notice.	Completed	25 February 2026

Committee of Council to consider all submissions in relation to Council's intention to declare the Special Charge Scheme.	Completed	6 May 2026
Council to consider the Committee's recommendations and decide to proceed with, vary or abandon the levying of the Special Charge Scheme at the July Council Meeting.	Purpose of this report	The Council Meeting in July 2026
Owners will be advised of Council's decision and of their rights of review if Council decides to proceed.	Future step	July 2026
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	August 2026
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	2027-28, 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 (which in this case it will not). 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 not 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 May to June 2026 (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, 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.

The Council Plan 2025-29

The Council Plan outlines 4 strategic objectives that are aligned to the Community Vision and describe the future Council is working towards. All the activities completed by Council, including those in this Plan, contribute to one or more of these strategic objectives.
The strategic objectives outlined in the Council Plan include:

- Naturally Beautiful – Together we build resilience and protect and enhance our natural environment
- Thriving Places – Facilities and infrastructure meet current and future needs. Growth is sustainable and well planned. Our economy, agriculture, tourism and industries are resilient. Unique character is preserved.
- Vibrant Communities – Communities are healthy, inclusive, safe and socially connected. Communities celebrate opportunity, recreation, diversity, heritage and reconciliation.
- Visionary Leadership – Our communities flourish through leadership that is open and responsible, ensuring decisions serve the communities best interests, and comply with legislative obligations.

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.

Bass Coast Planning Scheme

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 which 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 2025 – 2035

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 allowance for road and drainage improvement projects in accordance with the URDI Policy 2024.

AT- 7
Submissions and Objections Summary - 'The Esplanade (Sunderland Bay Road to Zephyr Court) Road and Drainage Upgrade Project'.

Summary:

- Eight (8) objections (33%)
- Ten (10) submissions of support (42%)
- Six (6) property owners did not provide a formal response (25%)

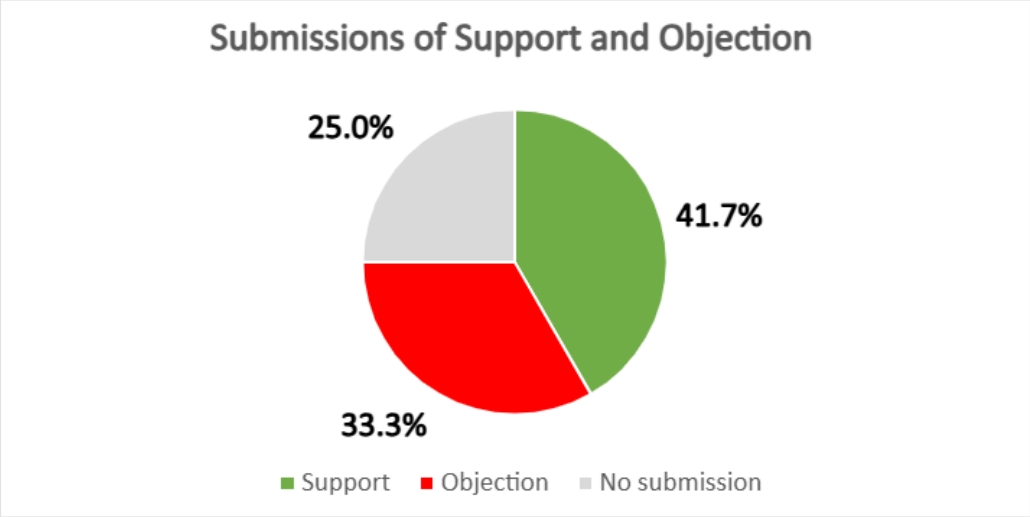


Figure 1: percentage breakdown of submissions of support and objection received from property owners

Eighteen (18) submissions were received, with thirteen (13) providing written comment to support their submission.

The main feedback received in the submissions and objections, by way of summary, were;

Feedback	Number
Not in line with natural characteristic of area	4
High financial burden	3
Apportionment should be on road frontage only	2
Increased traffic speeds and through traffic	2
Lower cost solutions should be explored instead	2
Negative impact on environment and wildlife	2
Request for power infrastructure to be put underground while completing upgrade	2
Side streets should be sealed instead	2
A lack of submission should not be counted as support	1
Council has disregarded outcome of the 2023 Sunderland Bay Surf Beach proposed Special Charge Scheme	1
Council should fully fund upgrade	1
Current approach is fragmented	1
Disruption during works	1
Hardship option offered is limited	1
Inconsistent with Council legislation, planning controls, Distinctive Area and Landscape process	1
Interest rate should be low, fixed or CPI linked	1
Interim dust reduction treatments should be employed prior to upgrade	1
Lack of consultation	1

Lack of transparency	1
Level of support should reach 50% to proceed	1
Not a good use of Council funds	1
Project costs will have increased with recent economic changes	1
Property owner has completed own drainage works	1
Request for consideration of discount at 32 The Esplanade for reduced benefit	1
Speed limit should be lowered along The Esplanade	1
The Sunderland Bay Bluff Car Park should be sealed at the same time	1
Traffic calming should not be included in the design	1
Was not aware of Special Charge Scheme prior to purchase	1

Committee of Council
The Esplanade (Sunderland Bay Road to Zephyr Court) Special Charge Scheme

Committee of Council Submission Hearing - 6 May 2026

The Esplanade (Sunderland Bay Road to Zephyr Court) Special Charge Scheme

A Committee of Council was formed to provide an opportunity for all affected landowners to be heard in favour of their submissions. The Committee of Council consisted of the following:

Mayor Brett Tessari – Bunurong Ward

Councillor Ron Bauer – Island Ward

Councillor Tracey Bell – Island Ward

Councillor Tim O'Brien – Island Ward

The Committee of Council has heard these submissions on 6 May 2026. The Committee of Council has considered each submission and determined whether it agrees, partially agrees, or disagrees with the content. The Committee has also made a recommendation as to whether any change to the proposed declaration is required in response to each submission.

In relation to 'The Esplanade (Sunderland Bay Road to Zephyr Court)' Special Charge Scheme:

The scheme includes the provision of road pavement and sealing works, underground surface and storm water drainage, kerb and channelling, nature strip works, road narrowings for local traffic management and other ancillary works necessary to complete the construction of the project.

The total estimated cost of the works is	**$1,849,550**
The number of properties included in the special charge scheme is	**24**
The total Council contribution is	**$1,217,517**
The total Landowner contribution is	**$524,033**

The submissions have all been considered and our recommendations are summarised below:

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Committee of Council
The Esplanade (Sunderland Bay Road to Zephyr Court) Special Charge Scheme

Submitters heard and submissions considered		
Address	**Comments from Committee of Council**	**Recommendation**
[redacted]	• Project was initiated by a petition from property owners in line with the Urban Roads and Drainage Improvement Policy 2024 (URDI). • Project meets Council's requirements under the Bass Coast State of Planning Policy and the declaration of Bass Coast as a Distinctive Area and Landscape. • Project does not diminish from the natural and cultural amenity of the estate. • All elements of the Scheme have been completed in line with the requirements of the *Local Government Act 1989* (LGA) and Council's URDI Policy. • Repayment options are available. • Consultation has been conducted in line with the *LGA 1989 and 2020*, Council's Community Engagement Policy 2021, and the URDI Policy. • Council only considers the number of objections received when determining if a special charge should proceed. • Project has been costed with contingency. Legislation allows Council to increase cost to property owners by no more than 10%. • Hardship offered in line with Council's Hardship and Financial Hardship Policy. • Interest is charged at the maximum rate of 1% above the estimated borrowing costs of the Council, with the rate remaining fixed across the repayment of the charge. • Current approach is considered the most cost effective and long-term method to provide the upgrade determined through community consultation.	**No change**
[redacted]	• A reasonable increase in additional traffic may now use The Esplanade when sealed which has been costed into Council's contribution. • Council's approach is to prioritise upgrades for roads with higher traffic volumes and need. • Project does not diminish from the natural amenity of the estate.	**No change**

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Committee of Council
The Esplanade (Sunderland Bay Road to Zephyr Court) Special Charge Scheme

Submitters heard and submissions considered		
Address	**Comments from Committee of Council**	**Recommendation**
	• Flora and fauna due diligence reports will be completed, with minimal interruption to existing vegetation. • Current approach is considered the most cost effective and long-term method to provide the upgrade determined through community consultation. • Apportionment of costs between property owners has been deemed fair and reasonable by legal counsel. • Zig zag chicanes have been included in design to reduce vehicle speeds.	

Submissions considered		
Address	**Comments from Committee of Council**	**Recommendation**
[redacted]	• Property deemed to receive full benefit of Special Charge Scheme.	**No change**
[redacted]	• Inclusion of a zig zag chicane has been included based on property owner consultation and has no access or amenity impact to properties.	**No change**
[redacted]	• Upgrade of Sunderland Bay Bluff Carpark to be considered for funding outside of the Special Charge Scheme.	**No change**
[redacted]	• A new public bin can be considered at the Sunderland Bay Bluff Car Park. • Underground power infrastructure is outside of the scope of this project.	**No change**
[redacted]	• Inclusion of kerb and channelling has been included based on property owner consultation. • Unlike corner blocks, the property will not be liable for any future special charge schemes and has therefore had no discounts applied.	**No change**
[redacted]	• A reasonable increase in additional traffic may now use The Esplanade when sealed which has been costed into Council's contribution.	**No change**

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Committee of Council
The Esplanade (Sunderland Bay Road to Zephyr Court) Special Charge Scheme

Submissions considered		
Address	**Comments from Committee of Council**	**Recommendation**
	• Council's approach is to prioritise upgrades for roads with higher traffic volumes and need. • Project does not diminish from the natural amenity of the estate. • Flora and fauna due diligence reports will be completed, with minimal interruption to existing vegetation. • Current approach is considered the most cost effective and long-term method to provide the upgrade determined through community consultation. • Apportionment of costs between property owners has been deemed fair and reasonable by legal counsel. • Zig zag chicanes have been included in design to reduce vehicle speeds.	
[redacted]	• Project does diminish from the natural amenity of the estate. • Under the *LGA 1989*, Council must consider the level of objection when deciding whether a scheme proceeds.	**No change**
[redacted]	• Council does not currently endorse interim dust reduction sealing. • This section of road is currently awaiting a speed reduction to 30km/hr.	**No change**
[redacted]	• Underground power infrastructure is outside of the scope of this project.	**No change**
[redacted]	• [redacted] • Repayment options are available. • Project is in line with the URDI Policy. • No existing Council drainage infrastructure identified at property.	**No change**
[redacted]	• Apportionment of costs between property owners has been deemed fair and reasonable by legal counsel.	**No change**

Council will respond to each submission in writing, to advise of the decision made at the July Council Meeting.

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Committee of Council
The Esplanade (Sunderland Bay Road to Zephyr Court)
Special Charge Scheme

Recommendation

That the Committee of Council having considered all submissions received in accordance with Section 223 of the Act and considered all other matters now recommends:

Council declare the Special Charge for the purpose of recovering costs in relation to the construction of road and drainage along The Esplanade (Sunderland Bay Road to Zephyr Court) without adjustment.



Signed ..... Date 6 July 2026
Councillor Brett Tessari - Chair

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