



**WELLINGTON**  
SHIRE COUNCIL

*The Heart of Gippsland*

## **COUNCIL MEETING AGENDA ORDINARY MEETING**

**Meeting to be held at**

**Wellington Centre – Wellington Room**

**Foster Street, Sale and via MS Teams**

**Tuesday 6 September 2022, commencing at 3:00 PM**

**or join Wellington on the Web:  
[www.wellington.vic.gov.au](http://www.wellington.vic.gov.au)**

**ORDINARY MEETING OF COUNCIL  
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## COUNCIL MEETING INFORMATION

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*Members of the public who are not in attendance at the Council meeting but who wish to communicate with the Council via the online webform should lodge their questions or comments early in the meeting to ensure that their submissions can be dealt with at the end of the meeting.*

*Please could gallery visitors, Councillors and invited online attendees ensure that mobile phones and other electronic devices are turned off or in silent mode for the duration of the meeting.*

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## ACKNOWLEDGEMENT OF COUNTRY

*"We acknowledge the traditional custodians of this land, the Gunaikurnai people, and pay respects to their Elders past and present"*

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## PRAYER

*"Almighty God, we ask your blessing upon the Wellington Shire Council, its Councillors, officers, staff and their families. We pray for your guidance in our decisions so that the true good of the Wellington Shire Council may result to the benefit of all residents and community groups."*

*Amen*

## 1. APOLOGIES

## 2. DECLARATION OF CONFLICT/S OF INTEREST

## 3. CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING/S

### 3.1. ADOPTION OF MINUTES OF PREVIOUS COUNCIL MEETING

**ACTION OFFICER: GENERAL MANAGER CORPORATE SERVICES**

**PURPOSE**

To adopt the minutes of the Ordinary Council Meeting of 16 August 2022.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

**RECOMMENDATION**

*That Council adopt the minutes and resolutions of the Ordinary Council Meeting of 16 August 2022.*

**CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

#### **4. BUSINESS ARISING FROM PREVIOUS MEETINGS**

**ACTION OFFICER: CHIEF EXECUTIVE OFFICER**

ITEM	FROM MEETING	COMMENTS	ACTION BY
NIL			

#### **5. ACCEPTANCE OF LATE AND URGENT ITEMS**

#### **6. NOTICE/S OF MOTION**

#### **7. RECEIVING OF PETITION OR JOINT LETTERS**

##### **7.1. OUTSTANDING PETITIONS**

**ACTION OFFICER: CHIEF EXECUTIVE OFFICER**

ITEM	FROM MEETING	COMMENTS	ACTION BY
NIL			

#### **8. INVITED ADDRESSES, PRESENTATIONS OR ACKNOWLEDGEMENTS**

#### **9. QUESTION/S ON NOTICE**

##### **9.1. OUTSTANDING QUESTION/S ON NOTICE**

**ACTION OFFICER: CHIEF EXECUTIVE OFFICER**

ITEM	FROM MEETING	COMMENTS	ACTION BY
NIL			

## 10. DELEGATES REPORT

## 11. GENERAL MANAGER CORPORATE SERVICES

### 11.1. ASSEMBLY OF COUNCILLORS

#### ACTION OFFICER: GENERAL MANAGER CORPORATE SERVICES

##### PURPOSE

To report on all assembly of Councillor records received for the period 8 August 2022 to 28 August 2022.

##### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

##### RECOMMENDATION

*That Council note and receive the attached Assembly of Councillor records for the period 8 August 2022 to 28 August 2022.*

##### BACKGROUND

Section 80A of the *Local Government Act 1989* required a written record be kept of all assemblies of Councillors, stating the names of all Councillors and Council staff attending, matters considered and any conflict of interest disclosures made by a Councillor. These records were required to be reported at an ordinary meeting of the Council and recorded in the minutes. Under the new *Local Government Act 2020*, this requirement is no longer provided for however, under Council's good governance framework, Council will continue to provide records of assemblies of Councillors to ensure that the community are kept informed of Councillors' activity and participation.

Following is a summary of all Assembly of Councillor records received for the period 8 August 2022 to 28 August 2022.

##### ATTACHMENTS

1. Assembly of Councillors - 16 August 2022 - Council Day [11.1.1 - 2 pages]
2. Assembly of Councillors - 25 August 2022 - MEMPC [11.1.2 - 2 pages]

##### OPTIONS

Council has the following options:

1. Note and receive the attached assembly of Councillors records; or
2. Not receive the attached assembly of Councillors records.

##### PROPOSAL

That Council note and receive the attached assembly of Councillors records during the period 8 August 2022 to 28 August 2022.



## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## **FINANCIAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNICATION IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **LEGISLATIVE IMPACT**

The reporting of written records of assemblies of Councillors to the Council in the prescribed format complied with Section 80A of the *Local Government Act 1989* however, without prescription under the *Local Government Act 2020*, Council will continue to provide these records as part of Council's good governance framework.

## **COUNCIL POLICY IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COUNCIL PLAN IMPACT**

This impact has been assessed and while it does not meet a specific Council Plan strategic outcome, it does align with Council's good governance framework.

This report supports the above Council Plan strategic outcome.

## **RESOURCES AND STAFF IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNITY IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENVIRONMENTAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENGAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **RISK MANAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## ASSEMBLY OF COUNCILLORS – 16 AUGUST 2022

MEETING	COUNCILLORS AND OFFICERS IN ATTENDANCE (NAME AND POSITION)				CONFLICT/S OF INTEREST OR ACTION ITEMS
IT / Diary Meeting	Name	Attendance	Name	Attendance	
	Cr Bye	Yes	Cr Stephens	Yes	N/A
	Cr Crossley	Yes	Cr Tatterson	Yes	N/A
	Cr McKenzie	Yes	Cr Wood	Yes	N/A
	Cr Maher <i>(on leave)</i>	No	David Morcom, CEO	Yes	N/A
	Cr Ripper	Yes	Viktoria Pope, EA	Yes	N/A
	Cr Rossetti	No	Damian Norkus, ICT Operations Officer	Yes	N/A

MEETING	COUNCILLORS AND OFFICERS IN ATTENDANCE				CONFLICT/S OF INTEREST OR ACTION ITEMS
Workshops	Name	Attendance	Name	Attendance	
	Cr Bye	Yes	Cr Tatterson	Yes	N/A
	Cr Crossley	Yes	Cr Wood	Yes	N/A
	Cr McKenzie	Yes	David Morcom, CEO	Yes	N/A
	Cr Maher <i>(on leave)</i>	No	Arthur Skipitaris, GM Corporate Services	No	N/A
	Cr Ripper	Yes	Brent McAlister, GM Development	Yes	N/A
	Cr Rossetti <i>(attended from Workshop 3)</i>	Yes	Chris Hastie, GM Built & Natural Environment	Yes	N/A
	Cr Stephens	Yes	Clemence Gillings, GM Community & Culture	Yes	N/A

Workshops (cont.)	MATTERS/ITEMS CONSIDERED AT THE MEETING	OTHERS IN ATTENDANCE
	1. <b>DEVELOPMENT DIVISION UPDATE: PLANNING, MUNICIPAL SERVICES AND ECONOMIC DEVELOPMENT</b>	<ul style="list-style-type: none"> <li>Brent McAlister, General Manager Development</li> <li>Joshua Clydesdale, Manager Land Use Planning</li> <li>Kate Foster, Manager Economic Development</li> <li>Vanessa Ebsworth, Manager Regulatory Services</li> </ul> <i>Conflict of Interest: Nil</i>
	2. <b>GREAT EASTERN OFFSHORE WIND INTRODUCTION</b>	<ul style="list-style-type: none"> <li>Penny Pickett, Development Director – Corio Generation (external)</li> <li>Gary La, Offshore Wind Development Manager, Corio Generation (external)</li> <li>Anthony Lamb, Head of Corporate Finance and Origination – Corio Generation (external)</li> </ul>
	3. <b>GIPPSLAND CIRCULAR ECONOMY PRECINCT/H2X</b>	<ul style="list-style-type: none"> <li>Scott McArdle, Managing Director – Nexsys Industries (external)</li> <li>Brett Singh, Executive Director – GCEP (external)</li> </ul> <i>Conflict of Interest: Nil</i>
	4. <b>CAPEX UPDATE</b>	<ul style="list-style-type: none"> <li>Dean Morahan, Manager Assets and Projects</li> </ul> <i>Conflict of Interest: Nil</i>
	5. <b>SALE FEASIBILITY STUDY – PART 1</b>	<ul style="list-style-type: none"> <li>Catherine Vassiliou, Coordinator Social Planning and Policy</li> <li>Mark Benfield, Coordinator Community Facilities Planning</li> </ul> <i>Conflict of Interest: Nil</i>
	6. <b>CUSTOMER SERVICE UPDATE – CUSTOMER ACTION REQUESTS (CARS) AND OVERVIEW</b>	<ul style="list-style-type: none"> <li>Vanessa Ebsworth, Manager Regulatory Services</li> <li>Leanne Dempster, Coordinator Customer Service</li> </ul> <i>Conflict of Interest: Nil</i>
	7. <b>JUNE 2022 QUARTERLY PERFORMANCE REPORT</b>	<ul style="list-style-type: none"> <li>Ian Carroll, Manager Corporate Finance</li> </ul> <i>Conflict of Interest: Nil</i>
	8. <b>WELLINGTON RENEWABLE ENERGY IMPACT AND READINESS STUDY – UPDATE</b>	<ul style="list-style-type: none"> <li>Jonathan Rochwerger, Senior Associate – Urban Enterprise (external)</li> <li>Kurt Ainsaar, Director – Urban Enterprise (external)</li> <li>Paul Shipp, Director – Urban Enterprise (external)</li> </ul> <i>Conflict of Interest: Nil</i>

# ASSEMBLY OF COUNCILLORS – 25 August 2022

ATTACHMENT 11.1.2

MEETING	COUNCILLORS, OFFICERS AND OTHERS IN ATTENDANCE (NAME AND POSITION)					
MUNICIPAL EMERGENCY MANAGEMENT COMMITTEE MEETING (MEMPC)	Councillor Name	Attendance	Conflict of Interest	Officer Name	Attendance	Item No.
	Cr Ian Bye	No		D Morcom, CEO	No	
	Cr Carolyn Crossley	Yes		A Skipitaris, GMCS	No	
	Cr Marcus McKenzie	No		C Gillings, GMC&C	YES	
	Cr John Tatterson	No		C Hastie, GMB&NE	No	
	Cr Jill Wood	No		B McAlister, GMD	No	
	Cr Gayle Maher	No				
	Cr Carmel Ripper	No				
	Cr Scott Rossetti	No				
	Cr Garry Stephens	No				
OTHERS IN ATTENDANCE (NAME AND POSITION)			MATTERS/ITEMS CONSIDERED AT THE MEETING			
See attached for attendees			MEMPlan review discussed			
			Verbal update from agencies			
			Update on activities of subcommittees			
			Training exercises discussed			

# WELLINGTON MUNICIPAL EMERGENCY MANAGEMENT PLANNING COMMITTEE

## MEMPC

**MEETING**  
MS Teams

**THURSDAY 25 AUGUST 2022 1.00pm – 2.30pm**

## MINUTES

ATTENDEES			
NAME	ORGANISATION	NAME	ORGANISATION
Clem Gillings (Chair)	WSC	Sam Matthews	WSC
Sam McPherson	WSC	Julie Baker (Minutes)	WSC
Neil Morrison	WSC	Kathryn Preston	HVP
Cr Caroline Crossley	WSC	Carina Gibson	Ambulance Vic
Tracey Hughes	WSC	Jason Helps	BRV
Andy Gillham	Parks Victoria	Sheryl Hastings	Red Cross
David Bartley	SES	Stuart Beales	DELWP
Rod Forrer	DJCS, BRV	Michael Roberts	DJPR, AgVic
Phillip Munnings	Fulham Correctional Centre	Greg Abramovitch	CFA
Andrea Page	CGH	Matt Daley	RAAF
David Ashworth	Gippsland Ports	Sarah Collins	Roads Vic
Shane Danvers	Department of Health	Rick Michalik	VicPol
George Kircos	VLine	Dave Weston	RAAF
Laura Edwards	DFFH	Mick Triantafyllou	Exxon Mobil

## 11.2. REMUNERATION COMMITTEE MINUTES

### ACTION OFFICER: CHIEF EXECUTIVE OFFICER

#### PURPOSE

For Council to note and receive the minutes and endorse the actions of the Remuneration Committee meeting held on 18 August 2022.

#### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

***That Council:***

- 1. Note and receive the minutes from the Remuneration Committee meeting held on 18 August 2022 as attached; and***
- 2. Endorse the actions from the Remuneration Committee meeting held on 18 August 2022 as detailed in the attached minutes.***

#### ATTACHMENTS

1. Remuneration Committee Minutes 18 August 2022 [11.2.1 - 2 pages]

#### OPTIONS

Council has the following options available:

1. Note and receive the minutes from the Remuneration Committee meeting held on 18 August 2022 and endorse the actions from the meeting; or
2. Not note and receive the minutes from the Remuneration Committee meeting held on 18 August 2022 or endorse the actions from the meeting and seek further information for consideration at a future Council meeting.

#### PROPOSAL

It is proposed that Council:

1. Note and receive the minutes from the Remuneration Committee meeting held on 18 August 2022 as attached; and
2. Endorse the actions from the Remuneration Committee meeting held on 18 August 2022 as detailed in the attached minutes.

#### CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## **FINANCIAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNICATION IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **LEGISLATIVE IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COUNCIL POLICY IMPACT**

The Remuneration Committee reviews Councillor entitlements, expenses, reimbursements and gifts and ensures alignment with Council policy direction and governance in relation to Councillor benefits.

## **COUNCIL PLAN IMPACT**

The Council Plan 2021-25 Theme 4 “Services and Infrastructure” states the following strategic outcome:

**Strategic Outcome 4.1:** *"A financially sustainable, high performing organisation."*

This report supports the above Council Plan strategic outcome.

## **RESOURCES AND STAFF IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNITY IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENVIRONMENTAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENGAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **RISK MANAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.





## REMUNERATION COMMITTEE

Thursday 18 August 2022 – 4pm

### MINUTES

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**PRESENT:** Councillor Ian Bye  
Councillor Marcus McKenzie  
Councillor Carolyn Crossley  
David Morcom (Chief Executive Officer)  
Arthur Skipitaris (General Manager Corporate Services)

**APOLOGIES:** NIL

**1. Declaration of Conflicts of Interest:**  
No Conflicts of Interest were declared.

**2. Minutes of Previous Meeting:**  
The minutes of the previous meeting on 3 May 2022 were accepted.

**3. Actions from previous minutes**  
Nil

**4. Councillor Costs and Reimbursements**  
Councillor Costs and Reimbursements spreadsheets were reviewed, discussed and accepted.

- Councillor Expense Summary Report YTD – 30 June 2022 (Attachment 1)

**5. General Business**  
Nil

The meeting closed at 4.10pm

## Attachment 1 - Councillor Expense Summary Report YTD – 30 June 2022

Councillor Expenses and Reimbursements - Period 01 July 2021 to 30 June 2022					
	YTD Actuals (incl oncosts)	Commitments	Left to spend/ receive after commitments	2021/22 Adopted Budget	2021/22 Adjusted Budget
Councillor and Mayoral Allowances	231,789.40	-	1,235.60	233,025.00	233,025.00
Other Councillor expenses	189,447.20	7,106.00	16,710.80	213,264.00	213,264.00
Grand Total	421,236.60	7,106.00	17,946.40	446,289.00	446,289.00

## 12. GENERAL MANAGER BUILT AND NATURAL ENVIRONMENT

### 12.1. PARK AVENUE COWWARR SPECIAL CHARGE STREET CONSTRUCTION SCHEME - DECLARATION OF SCHEME

#### ACTION OFFICER: MANAGER BUILT ENVIRONMENT

#### PURPOSE

The purpose of this report is for Council to consider to formally proceed with the proposed Park Avenue Special Charge Street Construction Scheme Number 2202 by way of formal declaration as a Special Charge Scheme under section 163(1) of the *Local Government Act 1989* for the construction and sealing of Park Avenue in Cowwarr.

#### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

***That:***

- 1. Council, having considered that no submissions were received and taken account that no objections were lodged and having complied with the requirements of sections 163A, 163B and 223 of the Local Government Act 1989 (the Act), and otherwise according to law, and having, so far as can be ascertained from available records and can reasonably be concluded, ascertained that Park Avenue in Cowwarr (Street) or any component of the Street has not previously been constructed by way of a special rate or charge, hereby proceeds to declare a Special Charge Scheme under section 163(1) of the Act (Scheme) in accordance with the Declaration of Special Charge (Declaration) attached to and forming a part of this report, such Declaration being for the purposes of construction and sealing the Street and providing all and any ancillary works, including road surface drainage and vehicle crossings.***
- 2. Council directs that, under cover of a letter, a written notice, enclosing a notice of levy, be sent to all owners of properties included in the Scheme, including those who have made a submission and/or lodged an objection in writing, of the decision of Council to make the Declaration, and the reasons for the decision.***
- 3. For the purposes of resolution 2, the reasons of Council for making the Declaration are that –***
  - (a) There is minimal objection to the Scheme and it is otherwise considered that there is a broad level of support for the Scheme from property owners;***
  - (b) Council considers that it is acting in accordance with the functions, powers and objectives conferred on it under the Act, particularly in relation to the provision of proper, safe and suitable roads and property services in and for the Scheme area;***
  - (c) All property owners who are liable or required to pay the Special Charge and the properties respectively owned and occupied 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) The basis of distribution of the Special Charge amongst the property owners who are liable or required to pay the Special Charge is considered to be fair and reasonable;**
- (e) The works proposed by the Scheme are consistent with all and any policies and/or objectives set out in the planning scheme for the area; and**
- (f) The works proposed for the construction and drainage of the Street are necessary, reasonable, not excessive, sufficient, suitable and not costly, having regard to the locality or environment and the probable use of the Street.**
- 4. The Chief Executive Officer (or any person for the time being acting in that position) be authorised to carry out any and all other administrative procedures necessary to enable Council to give effect to this resolution, including in relation to the levying of the Special Charge.**

## **BACKGROUND**

Park Avenue in Cowwarr is located within the residential area at the eastern end of the Cowwarr township. Park Avenue extends northward from Traralgon-Maffra Road (Main Street). Currently the road consists of a formed and unsealed gravel pavement, around 190 metres in length. The full length of road is of variable width between 5.0 to 6.0 metres with formed, though irregular, table drains. There is an underground drainage system crossing the street at the southern end which traverses along the eastern side of Park Avenue to discharge into Rainbow Creek.

The road (Park Avenue) is primarily a rural-type road in appearance, the unsealed section extending ~190 metres north from the Traralgon-Maffra Road with a turning area located at its northern end. This whole section of road is subject to the proposed street construction scheme. The full-length of the road is managed and maintained by Wellington Shire Council.

A formal investigation of a special charge scheme was commenced following ongoing property owner concerns in relation to dust, rutting and the maintenance grading regime along with surface water drainage issues in areas due to inundation during particularly heavy rain events. An initial scheme proposal was sent to property owners in April 2020, this proposal was not supported by a sufficient number of owners to proceed further. Following subsequent and ongoing requests to address the aforementioned concerns from property owners in Park Avenue, a new survey was undertaken in late 2021.

The proposed Park Avenue Construction Scheme would provide for the sealing of the road to a nominal 6.0 metre width and includes forming table drains, driveway crossovers and culverts and construction of kerbing at the Traralgon-Maffra Road intersection as part of the proposed works.

The construction and sealing of Park Avenue would reduce Wellington Shire Council's need for maintenance intervention, while providing a higher level of service and safety for these adjacent properties.

It is considered that the properties which abut this section of Park Avenue will derive a special benefit by the proposed upgrade works, as a result of:

- a reduction in dust;
- an enhancement to the amenity of the area;
- the creation of improved riding surfaces;

- improved road safety for road users;
- an improvement to access and egress from properties;
- an improvement to road surface drainage.

Following further investigation of potential methods to facilitate construction works in Park Avenue, it was concluded that a special charge scheme, generally in line with Council's Residential Road and Street Construction Plan, was the preferred approach, as this process requires public advertising and is a transparent process that informs the community of Council's contribution.

A decision not to hold a public meeting in April 2020, as initially proposed to outline the street scheme proposal was made due to the implementation of Covid restrictions by the State Government, subsequently a letter and survey form were sent out to property owners. In order to improve property owner understanding of the proposal, an information pamphlet was prepared and included with the letter and survey form to property owners in the second mail out undertaken in late 2021. Council officers were available to discuss details with individual property owners when requested.

This second letter with a survey form and information pamphlet outlining the proposed scheme along with the applicable apportionment cost was mailed out to property owners on 20 September 2021 to assess support for, or objection to, the proposed scheme

The results of the survey on the proposed scheme were;

	SUPPORT SCHEME		OPPOSE SCHEME		DID NOT REPLY	
Properties (7)	5	71%	2	29%	0	0%
Property Owners (7)	5	71%	2	29%	0	0%

There are no multiple property owners. There are no Council owned reserves, and there are no exempt or non-rateable properties within the scheme boundary.

Based on these survey results, the level of support for the scheme exceeds the 60% minimum level required under the 'Residential Road and Street Construction Plan', and therefore it is considered that there is sufficient level of initial support for the proposed **Special Charge Scheme for Park Avenue** in Cowwarr.

#### FORMAL AND STATUTORY SUBMISSIONS AND OBJECTIONS

Following Council's previous resolution in relation to its intention to commence the statutory process to declare the Special Charge Scheme, public notice was given in a newspaper circulating generally in the municipal district (Gippsland Times), and a separate written notice was sent to all property owners concerning Council's proposal.

As a result of this, Council received no written submission/objection from any property owners within the scheme.

This Report now addresses whether or not Council wishes to proceed with the proposed 'Park Avenue Special Charge Street Construction Scheme Number 2022' by way of formal declaration as a Special Charge Scheme under section 163(1) of the Act for the construction of Park Avenue in Cowwarr.

## ATTACHMENTS

1. Declaration of Special Charge [12.1.1 - 7 pages]
2. Maximum Total Levy [12.1.2 - 8 pages]

## OPTIONS

Council has the following options available:

1. To progress the proposed Special Charge Scheme through a full cost recovery apportionment method, by advertising the declaration of the Special Charge Scheme; or
2. Having first trialed and considered other methods of apportionment, to progress the proposed Scheme through the 'fixed fee method' as outlined in 'Council's Residential Road and Street Construction Plan', by advertising the declaration of the Special Charge Scheme; or
3. To not progress the declaration of the Special Charge Scheme.

## PROPOSAL

The proposal, which is now presented for Council's determination, is for Council to proceed with the proposed Special Charge Scheme generally through (and in accordance with) the funding framework outlined in Council's 'Residential Road and Street Construction Plan' and to proceed to declare a Special Charge Scheme for the construction of Park Avenue in Cowwarr and for the provision of road construction, sealing and ancillary works, as outlined in this and previous reports which have been considered by Council.

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## FINANCIAL IMPACT

The total costs applicable to the Special Charge Scheme are estimated to be \$180,000. The amounts to be recovered under the Scheme do not include GST.

Based on the funding framework within the 'Residential Road and Street Construction Plan' and as otherwise considered by council officers to be fair and reasonable based on the total special benefits and community benefits to be provided by the works. \$25,200 of the costs are to be apportioned to properties within the Special Charge Scheme area, with the balance being funded by Council from the Roads to Recovery program.

On this basis, the following figures are presented for Council's approval –

Amount apportioned to properties within the Scheme:	\$ 25,200
Portion of costs to be recovered from Council as direct costs:	\$154,800
Total estimated cost of the Scheme:	\$180,000

There are no multiple property owners. There are no non-rateable land or council reserves located within the Scheme boundary.

To confirm the reasonableness, fairness and appropriateness of the funding framework outlined in Council's 'Residential Road and Street Construction Plan' and otherwise (as being the fairest and most reasonable method of distributing the proposed Special Charge amongst all of the property owners in the Scheme), Council officers first trialed and considered a number of different methods of apportionment of the Special Charge, refer attached **Declaration of Special Charge Schedule 2 (Methods 1 and 2)**.

This included the completion of property apportionment charges based on access only, as well as a combination of access and frontage in the distribution of the 'Maximum Total Levy Amount' as that amount has been separately calculated using the 'Benefit Ratio' calculations for the proposed Special Charge Scheme, refer attached **Maximum Total Levy**.

On this basis, the cost per property under such other apportionment methods would have been between either \$14,926 and \$21,623 or, \$16,457 (respectively) considerably more on an average per property owner basis, than the method of distribution which is being proposed for Council's consideration.

Accordingly, and in light of this 'comparative' work undertaken by Council officers, it is recommended to Council that the method of distributing the Special Charge amongst the property owners, as set out in this Report (**Method 3 in Schedule 2** of the attached **Declaration of Special Charge**), is considered to be fair and reasonable.

Property owners who are liable to pay under the Special Charge Scheme will only be invoiced following satisfactory completion of works. Options for payment include full payment within 45 days or 20 quarterly instalments (five years), including an interest component aligned to Council's cost of finance.

## **COMMUNICATION IMPACT**

A comprehensive public consultation process has been entered into with affected property owners including information letters, surveys and meetings. If the scheme progresses, then ongoing communication will continue with the recommendations of this report.

## **LEGISLATIVE IMPACT**

This scheme has been prepared in accordance with Section 163, 163A, 163B of the *Local Government Act 1989*. Public notification will be in accordance with Sections 163 and 223 of the *Local Government Act 1989*. Submissions and objections to the scheme will be considered in accordance with Sections 163A, 163B and 223 of the *Local Government Act 1989*.

Section (2) of Section 163 of the *Local Government Act 1989* requires Council to determine:

- (a) The total amount of the Special Charge to be levied; and
- (b) The criteria to be used as the basis for declaring the special charge.

Section (2A) of Section 163 of the *Local Government Act 1989* provides that for the purpose of Section (2) (a) the total amount of the Special Charge to be levied must not exceed the amount "S" where  $S = R \times C$  and;

S = is the maximum total amount that may be levied from all the persons who are liable to pay the special rates or special charges.

R = is the benefit ratio determined by the Council in accordance with sub-section (2B).

C = is the total cost of the performance of the function or the exercise of the power under sub-section (1).

A determination for the purposes of complying with the requirements of sections 163(2)(a), (2A) and (2B) of the Act (which also satisfies the requirements of the Ministerial Guidelines) is included in this report as **Maximum Total Levy**.

## **COUNCIL POLICY IMPACT**

The scheme has been prepared in accordance with Council's Special Charge Schemes – Roads, Street and Drainage Development Policy 4.2.4 and the 2019 'Residential Road and Street Construction Plan'.

## **COUNCIL PLAN IMPACT**

The Council Plan 2021-25 Theme 4 "Services and Infrastructure" states the following strategic outcome:

**Strategic Outcome 4.3:** *"Well planned and sustainable towns, facilities, and infrastructure that service community need."*

This report supports the above Council Plan strategic outcome.

## **RESOURCES AND STAFF IMPACT**

Implementation of the scheme can be undertaken within the resources of the Assets and Projects Unit. In the event the scheme is adopted by Council, construction will be carried out by an approved contractor via a tender process.

## **COMMUNITY IMPACT**

Implementation of this Scheme will have a positive community impact as it will result in Park Avenue, Cowwarr being fully sealed in line with current service standards. Community benefit is reflected in Council's contribution towards the works outcome.

## **ENVIRONMENTAL IMPACT**

Implementation of this scheme will have a positive environmental impact arising from the reduction of dust generated by vehicles as well as improved quality of storm water runoff.

## **ENGAGEMENT IMPACT**

A comprehensive public consultation process has been entered into with affected property owners including:

- Information Letter and proposed Public Meeting – 16 March 2020
- Letter advising that Public Meeting to be postponed – 23 March 2020



- Mail out survey of all property owners - 23 April 2020
- Letter with corrections sent out to property owners – 4 May 2020
- Mail out survey of all property owners - 20 September 2021
- Follow up phone calls and emails seeking survey replies
- Mail out advising of survey results – 18 February 2022
- Formal public notice under sections 163B and 223 of the *Local Government Act 1989*
- Letter with public notice enclosed to all property owners – 26 April 2022

## **RISK MANAGEMENT IMPACT**

Implementation of the scheme will produce a substantial reduction in risk to motorists, and other road users through improved visibility (reduction of dust), improved road surfacing and road drainage.

## DECLARATION OF SPECIAL CHARGE

### ‘Park Avenue, Cowwarr - Special Charge Street Construction Scheme Number 2202’

1. Wellington Shire Council (**Council**) proposes to declare a Special Charge (**Special Charge** or **Scheme**) under section 163(1) of the *Local Government Act 1989* (**Act**) for the purpose of defraying any expenses or repaying (with interest) any advance made to or any debt incurred or loan to be raised by Council in relation to the construction of Park Avenue in Cowwarr (**Street**) and for providing all and any necessary ancillary works associated with the construction of the Road, including road drainage. The Scheme, if declared, is to be known as the ‘Park Avenue - Special Charge Street Construction Scheme Number 2202’.
2. The criteria which will form the basis of the declaration of the Special Charge are the ownership of rateable properties in the area of the Scheme and based on the application of access benefit units, including having regard to the driveway access of those properties in the Scheme to Park Avenue (as the properties are set out in paragraphs 7 and 8 of the proposed declaration), the overall benefits which it is considered the properties in the Scheme (based on the physical and other benefits) will receive from the works to be provided under the Scheme.
3. In proposing the declaration of the Special Charge, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district of the Shire of Wellington, in particular the provision of proper, safe and suitable roads and property services within the area for which the proposed Special Charge is to be declared (**Works**).
4. The total cost of the performance of the function and the exercise of the power by Council (in relation to the Works) is \$180,000 and this amount is the total estimated cost of the Works to be undertaken by the Scheme.
5. The total amount to be levied under the Scheme as the Special Charge is \$25,200
6. The Special Charge will commence on the date on which it is levied by Council and will remain in force for a period of 5 years.
7. The area for which the proposed Special Charge is to be declared is all of the land shown on the plan set out in the Schedule forming a part of this proposed declaration (being **Schedule 1**).
8. The land in relation to which the proposed Special Charge is to be declared is all that rateable land described in the listing of rateable properties set in the Schedule forming a part of this proposed declaration of Special Charge (being **Schedule 2**).

9. The proposed Special Charge will be assessed and levied in accordance with the amounts set out alongside each property in the Schedule forming a part of this proposed declaration (being **Schedule 2**), such amounts having been assessed and determined by Council as (and are based on) a fixed charge for each property having regard to access, including and in particular driveway access. Properties which have a shared driveway access to the street to be constructed via common property will have their access benefits calculated on the basis of 100% for the first property and 50% for each additional property (with access being apportioned to each of the properties so as to equal the sum of the percentages divided by the number of properties with common property access), and any other benefits.

(More particularly, the Special Charge is to be apportioned to properties included in the Scheme on the basis of each property having a driveway access to the street to be constructed under the Scheme being apportioned one (1) Access Benefit Unit (ABU) and properties within an Owners Corporation with a shared driveway access to the street via common property being apportioned an Access Benefit Unit calculated on the basis of 100% for the first property and 50% for each additional property. The Access Benefit Unit is otherwise to be apportioned to each of these properties equaling the sum of the percentages divided by the number of properties with common property access.)

10. Subject to any further resolution of Council, the Special Charge will be levied by Council sending a notice in the prescribed form to the owners of the properties in the Scheme by which the Special Charge is to be paid –
  - (a) In full amount within 45 days of the notice; or
  - (b) By way of quarterly instalments in the manner set out in paragraph 11.
11. Because the performance of the function and the exercise of the power in respect of which the proposed Special Charge is to be declared and levied relates substantially to the provision of capital works, special ratepayers will be given an instalment plan under which –
  - (a) Quarterly instalments are to be paid over a 5 year period, or other such period as negotiated; and
  - (b) Quarterly instalments will include a component for reasonable interest costs, the total of which will not exceed the estimated borrowing costs of Council in respect of the construction of the Road by more than 1 per cent.
12. Council will consider cases of financial and other hardship, and may consider other payment options for the Special Charge.
13. No incentives will be given for the payment of the Special Charge before the due date for payment.
14. Council considers that there will be a special benefit to the persons required to pay the Special Charge because there will be a benefit to those persons over and above, or greater than, the benefit that is available to persons who are not subject to the proposed Special Charge, and directly and indirectly as a result of the expenditure

proposed by the Special Charge, the value and the use, occupation and enjoyment of the properties included in the Scheme will be maintained or enhanced through the provision of proper, safe and suitable roads and property services. Without limitation, Council considers that the Works will –

- (a) Reduce dust;
- (b) Enhance the amenity and character of the land, and local area;
- (c) Create improved riding surfaces for the roads;
- (d) Improve access and egress from properties;
- (e) Improve road drainage; and
- (f) Improve road safety for motorists, cyclists.

- 15.** For the purposes of having determined the total amount of the Special Charge to be levied under the Scheme, Council further considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special and community benefits) that will accrue as special benefits to all persons who are liable to pay the Special Charge is in a ratio of 0.64 or 64%, noting however that, in the exercise of its discretions, Council has chosen to make a further contribution to the cost of the Works so as to arrive at a Revised Maximum Total Levy Amount of \$25,200.

### **SCHEDULES TO DECLARATION**

Schedule 1 - Scheme plan area

Schedule 2 - Listing of all properties with amount of special charges payable and showing manner of calculation of special charge apportionment;

Method 1 - Maximum Levy at 50% Access Benefit & 50% Frontage

Method 2 - Maximum Levy at 100% Access Benefit

Method 3 - Fixed Fee

Schedule 1

PARK AVENUE – COWWARR  
PLAN OF SPECIAL CHARGE SCHEME AREA.

Scheme Boundary 



## Schedule 2

## Method 1 - Maximum Levy at 50% Access Benefit &amp; 50% Frontage

## WELLINGTON SHIRE COUNCIL

## PARK AVE CONSTRUCTION SCHEME - APPORTIONMENT OF COST - MAX. LEVY AMOUNT - 50% ACCESS &amp; 50% FRONTAGE

ASSES NO.	PARCEL NO.	TITLE DETAILS	STREET ADDRESS OF PROPERTY	ACCESS BENEFIT (AB)	FRONTAGE (F)	SIDEAGE & REARAGE (S&R)	TOTAL APPORTIONED LENGTH (AL=F+0.3S&R)	SCHEME AMOUNT DUE (=ABxR + ALxR)
1	109355	8602 CA 8 Sec 5	5 Park AVE, COWWARR	1	20	0	20	\$14,926.25
2	403527	55002 Lot 2 PS545545	7-9 Park AVE, COWWARR	1	40	0	40	\$21,623.92
3	109348	8601 Lot 2 LP113498	11 Park AVE, COWWARR	1	20	0	20	\$14,926.25
4	109330	8600 Lot 1 TP561597	13 Park AVE, COWWARR	1	20	0	20	\$14,926.25
5	109322	51962 Lot 1 TP514113	15 Park AVE, COWWARR	1	20	0	20	\$14,926.25
6	108670	34874 CA 2 Sec 5	17-19 Park AVE, COWWARR	1	40	0	40	\$21,623.92
7	113050	9231 Lot 1 PS329019	2813 Traralgon Mafra Road, COWWARR	1	0	40	12	\$12,247.18
<b>TOTALS</b>				<b>7</b>	<b>160.0</b>	<b>40</b>	<b>172.0</b>	<b>\$115,200.00</b>
<b>TOTAL ESTIMATED COST OF SCHEME</b>								
<b>COUNCIL CONTRIBUTION</b>					<b>\$ 180,000</b>			
<b>APPORTIONED AMOUNT</b>					<b>\$ 64,800</b>			
					<b>\$ 115,200</b>			
AMOUNT APPORTIONED TO ACCESS - 50%					<b>\$ 57,600</b>			
AMOUNT APPORTIONED TO FRONTAGE 50%					<b>\$ 57,600</b>			
Apportionment Rate - (Access Benefit Units)					<b>\$ 8,228.57</b>	per ABU (R)		
Apportionment Rate - (Abutment Length)					<b>\$ 334.88</b>	per m (R)		



## Method 2 - Maximum Levy at 100% Access Benefit

**WELLINGTON SHIRE COUNCIL**  
**PARK AVENUE STREET CONSTRUCTION SCHEME - APPORTIONMENT OF COST - MAXIMUM LEVY - ACCESS ONLY**

ASSES NO.	PARCEL NO.	TITLE DETAILS	STREET ADDRESS OF PROPERTY	ACCESS BENEFIT	ACCESS BENEFIT FACTOR APPLIED FOR COMM. PROP.	APPORTIONED ACCESS BENEFIT (AAB)	FIXED RATE CONTRIBUTION (FRC)	SCHEME AMOUNT DUE (= AAB x FRC)
1	109355	8602	CA 8 Sec 5	5 Park AVE, COWWARR	1	1	\$16,457.14	\$16,457.14
2	403527	55002	Lot 2 PS545545	7-9 Park AVE, COWWARR	1	1	\$16,457.14	\$16,457.14
3	109348	8601	Lot 2 LP113498	11 Park AVE, COWWARR	1	1	\$16,457.14	\$16,457.14
4	109330	8600	Lot 1 TP561597	13 Park AVE, COWWARR	1	1	\$16,457.14	\$16,457.14
5	109322	51962	Lot 1 TP514113	15 Park AVE, COWWARR	1	1	\$16,457.14	\$16,457.14
6	108670	34874	CA 2 Sec 5	17-19 Park AVE, COWWARR	1	1	\$16,457.14	\$16,457.14
7	113050	9231	Lot 1 PS329019	2813 Traralgon Mafra Road, COWWARR	1	1	\$16,457.14	\$16,457.14
<b>TOTALS</b>				<b>7</b>		<b>7</b>		<b>\$115,200.00</b>
<b>TOTAL ESTIMATED COST OF SCHEME</b>								
<b>COUNCIL CONTRIBUTION</b>					<b>\$180,000.00</b>			
<b>APPORTIONED AMOUNT</b>					<b>\$64,800.00</b>			
					<b>\$115,200.00</b>			

## ABU FACTOR CALCULATION FOR COMMON PROPERTY

Calculation - First property at 100% with 50% for each additional property divided by number of properties

Address	First Property	Additional Property Total No of Proper Factor
Nil		

## Method 3 – Fixed Fee - Access Benefit (Revised Maximun Levy)

**WELLINGTON SHIRE COUNCIL**  
**PARK AVENUE STREET CONSTRUCTION SCHEME - APPORTIONMENT OF COST - REVISED MAXIMUM LEVY - ACCESS ONLY**

ASSESS NO.	PARCEL NO.	TITLE DETAILS	STREET ADDRESS OF PROPERTY	ACCESS BENEFIT	ACCESS BENEFIT FACTOR APPLIED FOR COMM. PROP.	APPORTIONED ACCESS BENEFIT (AAB)	FIXED RATE CONTRIBUTION (FRC)	SCHEME AMOUNT DUE (= AAB x FRC)
1	109355	8602 CA 8 Sec 5	5 Park AVE, COWWARR	1	1	1	\$3,600.00	\$3,600.00
2	403527	55002 Lot 2 PS545545	7-9 Park AVE, COWWARR	1	1	1	\$3,600.00	\$3,600.00
3	109348	8601 Lot 2 LP113498	11 Park AVE, COWWARR	1	1	1	\$3,600.00	\$3,600.00
4	109330	8600 Lot 1 TP561597	13 Park AVE, COWWARR	1	1	1	\$3,600.00	\$3,600.00
5	109322	51962 Lot 1 TP514113	15 Park AVE, COWWARR	1	1	1	\$3,600.00	\$3,600.00
6	108670	34874 CA 2 Sec 5	17-19 Park AVE, COWWARR	1	1	1	\$3,600.00	\$3,600.00
7	113050	9231 Lot 1 PS329019	2813 Traralgon Maffra Road, COWWARR	1	1	1	\$3,600.00	\$3,600.00
<b>TOTALS</b>				<b>7</b>		<b>7</b>		<b>\$25,200.00</b>

**TOTAL ESTIMATED COST OF SCHEME**  
**COUNCIL CONTRIBUTION**  
**APPORTIONED AMOUNT**

**\$180,000.00**  
**\$154,800.00**  
**\$25,200.00**

**ABU FACTOR CALCULATION FOR COMMON PROPERTY**

Calculation - First property at 100% with 50% for each additional property divided by number of properties

Address  
Nil

First Property

Additional Property Total No of Property Factor



## PARK AVENUE COWWARR – SPECIAL CHARGE STREET CONSTRUCTION SCHEME NUMBER 2202

### Determination under Sections 163(2)(a), (2A) and (2B) of the *Local Government Act 1989* – Calculation of Total Amount of Special Charges to be Levied ('Maximum Total Levy')

#### Introduction

Wellington Shire Council (**Council**) has a legacy of being required to deal with a number of issues associated with sub-standard roads and streets throughout the Shire. A key objective of Council is to renew and improve roads and streets within residential environments with a view to providing proper community infrastructure and improved amenity and liveability, and overall resident satisfaction.

Council has (following a review of its 'Residential Road and Street Construction Plan 2014') adopted the 'Residential Road and Street Construction Plan 2019' (**Plan**). As a strategic policy document, the Plan seeks to provide a sustainable budgetary response to the renewal and improvement of sub-standard roads and streets within residential environments throughout the Shire.

The proposed special charge scheme for the construction and improvement of Park Avenue Cowwarr, north of the Traralgon Maffra Road (to be known as the 'Park Avenue - Special Charge Street Construction Scheme Number 2102') (**Special Charge** or **Scheme**) is consistent with, and otherwise supports, the Plan.

This determination is made by Council under and for the purposes of sections 163(2)(a), (2A) and (2B) of the *Local Government Act 1989* (**Act**). It addresses the calculation of the 'benefit ratio' in order to determine the total amount of the special charges that may be levied on those property owners who it is considered will receive a benefit from the proposed works through the imposition of the Special Charge (**'Maximum Total Levy'**).

The calculation of the Maximum Total Levy requires Council to –

- Calculate the total cost of the works; and
- Calculate the 'benefit ratio' based on reasonable estimates being made of –
  - i. The 'total special benefits' to the properties included in the Scheme (TSB(in));
  - ii. The 'total special benefits' to the properties not included in the Scheme (if any) (TSB(out)); and
  - iii. The 'total community benefits' (if any) to be provided by the Scheme (TCB).

**A. Define Purpose**

The purpose of the Special Charge Scheme is to defray an expense or to repay (with interest) an advance made to or a debt or loan to be raised by Council in connection with the construction & sealing improvement of Park Avenue, Cowwarr

Park Avenue located within the residential area of Cowwarr and currently consists of a formed (but unsealed) gravel pavement of approximately 5 - 6m width and around 190m in length with irregular surface drains. The road is primarily a rural type road, with the unsealed section extending for its full length (commencing from the Traralgon Maffra Road / Main Street). The road is managed and maintained by Council.

A formal investigation of the proposed Special Charge Scheme was commenced following ongoing property owner concerns and complaints in relation to dust, surface water drainage and Council's maintenance grading regime, which applied to the road. The initial work undertaken by Council in response to these concerns included the preparation of concept plan and an estimate of costs. Property owners were advised that, if implemented, the Scheme would provide for the construction and sealing of the road to a 6.0 width, with kerbing at the intersection, and improved road surface drainage and driveway crossovers.

The construction and sealing of Park Avenue will reduce Council's need for ongoing maintenance intervention, while providing a higher level of service for property owners and the general public. Under Council's Road Management Plan, Park Avenue is designated as a 'Local Access B Road' respectively and (as required by the Plan), 71% or more of property owners have expressed support for its construction.

Consistent with the Plan, it is considered that the 7 rateable properties which it is proposed will be included in the Scheme (and the general public) will benefit from the proposed works in the following ways –

- Improved amenity and liveability for residents and community through quality infrastructure and streetscape;
- Removal of dust and health related issues currently experienced in unsealed streets;
- Improved safety for motorists with modern road infrastructure, that is less exposed to rapid degradation;
- Decreased maintenance costs incurred by Council, through reduced demand associated with upkeep of poorly constructed roads, streets & drains;
- Increased community satisfaction via the provision of infrastructure that meets expectations;

Following further investigation of potential methods to facilitate the construction works in Park Avenue, a further consideration of survey results and further discussions with property owners (who continue to show support for the Scheme), it has been concluded that a Special Charge Scheme, generally in accordance with and supported by the Plan, is the preferred approach to facilitate the project outcomes.

## B. Ensure Coherence

The proposed road and surface drainage improvement works to be located within the Scheme area will provide a special benefit to the 7 rateable property owners located within the Scheme boundary, and are otherwise physically connected to the purpose set out in A.

## C. Calculate Total Costs

The implementation of the Special Charge is regulated by section 163 of Act. Ministerial Guidelines made pursuant to the Act require Councils to be transparent about how they calculate the 'Maximum Total Levy'.

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

<b>Total Scheme Cost</b>	<b>\$180,000</b>
'Benefit Ratio' Determination	0.64 or 64%
<b>Maximum Total Levy Amount</b>	<b>\$ 115,200</b>
Further Council Contribution	\$ 90,000
<b>Revised Maximum Total Levy Amount</b>	<b>\$ 25,200</b>

## D. Identify Special Beneficiaries

It is considered that all 7 rateable properties in the Scheme (as they are listed in the apportionment spreadsheet) will receive both road- and drainage-related special benefits from the proposed works.

The relevant special benefits which it is considered each property will receive are –

- Reduction in dust;
- Enhancement of the amenity and character of the land and local area;
- Creation of improved riding surfaces for the street;
- Improvement in access and egress from properties;
- Improved road drainage; and
- Improved road safety for motorists and cyclists.

The Scheme area (showing the 7 properties and the location of the roads to be constructed) is shown in on the plan below.



### E. Determine Properties to Include

For the purposes of calculating the Benefit Ratio, a notional benefit value – to be called a Benefit Unit (BU) – will be used. A BU is a deemed benefit equal to the *average* benefit for each and every property included in the Scheme. This average benefit is considered to comprise *both* access and amenity benefits.

It is considered that that all of the properties included within the Scheme will receive a benefit from the works to be provided under the Scheme (being 1 BU for each property), regardless (for the purposes of calculating the Benefit Ratio but not for the purposes of the final distribution of the Special Charge amongst the Special Charge contributors) and regardless of whether or not particular properties have subdivision or other development potential (or, in some cases, further subdivision or development potential). The BU so chosen has been broken up equally into both access benefit and amenity benefit (viz., 0.5 BU for ‘improved access’ and 0.5 BU for ‘improved amenity’).

### F. Estimate Total Special Benefits

Total Special Benefit Units are defined as follows –

Total Special Benefits = Total Special Benefits In + Total Special Benefits Out, that is –

$$(TSB = TSB_{(in)} + TSB_{(out)})$$

$TSB_{(in)}$  has been calculated as follows –

Total Special Benefit Units In ( $TSB_{(in)}$ )	Access (50%)	Amenity (50%)
Total number of Rateable Properties in Scheme receiving Special Benefit and being required to pay the Special Charge	$0.5 \times 7 = 3.5$ BU	$0.5 \times 7 = 3.5$ BU
<b><math>TSB_{(in)} =</math></b>	<b>7 BU</b>	

$TSB_{(out)}$  has been calculated as follows –

Because –

- All of the properties in the Scheme (including common property) are rateable; and
- There are no properties in the Scheme receiving a special benefit which are not required to pay the Special Charge –

there are no  $TSB_{(out)}$  properties.  $TSB_{(out)} = 0$

## **G. Estimate Total Community Benefit**

In addition to establishing the Total Special Benefits for the Scheme, an assessment of any Community Benefit is also required to be undertaken in order to calculate the Maximum Total Levy.

In terms of assessing the level of any Community Benefit, it is generally considered that the works included in the Scheme will primarily benefit only those properties which are included within the Scheme boundary, and that accordingly the level of benefit to the broader community will be limited.

It is considered that the Community Benefit attributable to the proposed Scheme works will be generated from the broader community receiving some benefits and which benefits (in the interest of fairness and equity) Council should be pay for (and not the special charge contributors).

The community benefits are considered to be –

- A wider use of Park Avenue following its construction;
- Improved drainage and water quality; and
- Reduced ongoing maintenance costs for Council.

### *Broader traffic use*

To calculate the level of Community Benefit which it is considered will be attributable to persons who are not accessing or servicing the properties within the Scheme boundary (but who will nevertheless use the road for wider access purposes), an assessment of vehicle movements has been undertaken. It is estimated that there are 50 vehicle movements per day on the street (in its present form).

Based on these traffic movements, it is considered that the some of these vehicle movements relate to use by persons who are accessing or servicing the Special Benefit properties in the scheme (based on an average of 6 vehicle movements per day).

Therefore, the Total Special Benefits for 'road access' by the Special Benefit (in) properties is determined to be 3.5 BU (this is based on approximately 42 vehicle movements per day (7 x 6 (averaged out and give or take))).

Based on current traffic volumes (and any projected increases in traffic following construction of the road by persons not receiving special benefits), it is anticipated that the overall traffic along Park Avenue would not significantly increase, meaning that it is anticipated that there will be little additional vehicle movements per day following construction of the roads. Despite this, an allowance is made for what may be some increase in traffic movements and, accordingly, any projected increase in external traffic will account for the Total Community Benefit, and this will result in the calculation of the following BU's for any such traffic by the broader community.

Total Community Benefit Units for any broader traffic use of the road is calculated as follows–

$$TCB_{\text{traffic}} = 3.5 \times (42 / 50)$$

$$= 3.5 \times 0.84$$

$$TCB_{\text{traffic}} = 2.9$$

*Improved drainage and water quality*

Sealing of the roads will result in improved drainage and better water quality: It is recommended therefore that **0.5 BU** be allowed for this benefit, which is however considered to be a marginal benefit.

$$TCB_{\text{drainage}} = 0.5$$

*Reduced ongoing maintenance costs*

There will be less ongoing maintenance costs for Council in having to care for and manage a sealed road, rather than an unsealed road: It is recommended therefore that **0.5 BU** be allowed for this benefit, which again is considered to be a marginal benefit.

$$TCB_{\text{maintenance}} = 0.5$$

Therefore,

$$TCB_{\text{total}} = TCB_{\text{traffic}} + TCB_{\text{drainage}} + TCB_{\text{maintenance}}$$

$$= 2.9 + 0.5 + 0.5$$

$$TCB_{\text{total}} = 3.9$$

#### H. Calculating the 'Benefit Ratio'

The Benefit Ratio is calculated as follows –

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

$$= 7 / (7 + 0 + 3.9)$$

$$= 7 / 10.9$$

$$\text{Benefit Ratio (R)} = 0.64$$

### I. Calculating the Maximum Total Levy

The following formula, as set out in the Act, is used to determine the Maximum Total Levy–

$$R \times C = S$$

where –

**R** is the Benefit Ratio determined by Council;

**C** is the Total Scheme cost; and

**S** is the Maximum Total Levy

Maximum Total Levy Amount ( $R \times C = S$ )
$0.64 \times \$180,000 = \$115,200$

Council may levy up to **64%** of total costs, or **\$115,200**

### J. Other relevant considerations

Council notes that if it levies the Maximum Total Levy Amount of \$115,200 the special charge contributors would be required to pay by way of special charges amounts which exceed the amounts set out in Council's Residential Road and Street Construction Plan 2019<sup>1</sup>.

In the exercise of its discretions, and otherwise in accordance with the Plan (and the objectives which the Plan seeks to achieve), Council chooses to allocate a further amount of \$90,000 in and towards the cost of the Scheme works, meaning that the Maximum Levy Amount to be charged to the Scheme will be \$25,200 (***Revised Maximum Total Levy Amount***).

The Revised Maximum Total Levy Amount is to be apportioned amongst the property owners within the scheme area in accordance with the method of distribution of the Special Charge to be determined by Council in the declaration of the Special Charge.

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<sup>1</sup> Refer to section 6.2 of the Plan by which a fixed rate contribution model of \$3,600 has been proposed and adopted by Council for Small & Coastal Towns where sealed roads are to be provided.



## 12.2. MCMILLAN STREET STRATFORD SPECIAL CHARGE SCHEME- FINAL CERTIFICATE

### ACTION OFFICER: MANAGER BUILT ENVIRONMENT

#### PURPOSE

The purpose of this report is to present to Council for consideration the final cost certificate for the McMillan Street (East) Stratford Special Charge Street Construction Scheme – Scheme No 1904.

#### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

#### RECOMMENDATION

***That Council:***

- 1. Adopt the Final Cost Certificate for the McMillan Street Stratford Special Charge Street Construction Scheme – Scheme No 1904; and***
- 2. Authorise the Chief Executive Officer to prepare the final apportionment amounts due from property owners for the McMillan Street Stratford Special Charge Street Construction Scheme – Scheme No 1904 based on the total levy amount of \$60,000.***

#### BACKGROUND

At its meeting on 7 April 2020, Council resolved to give notice of its intention to declare the Special Charge Street Construction Scheme for the construction of McMillan Street (East) between Davis and Thomson Streets in Stratford. There were no submissions received on the proposed scheme, with Council resolving to declare the Special Charge Scheme at its 16 June 2020 meeting and to serve a levy notice on all affected property owners.

The initial estimated cost of the street reconstruction works was \$685,000. The project was subsequently tendered, a contract was awarded by Council on 15 December 2020 and the works were undertaken, and practical completion was achieved on 24 June 2022.

The contract amount entered into with Fowlers Asphalting Pty Ltd was \$778,046.00 ex GST. Accounting for contract variations and deletion of contract schedule items not required, the final contract cost was \$791,366.44.

Ancillary costs for the street scheme were \$7,599.82 and included additional engineering advice for the new stormwater outfall (\$7,410), along with advertisement cost for tendering of the works (\$189.92) produced an overall **Final Scheme Cost of \$798,966.26** (all figures are ex GST). Staff overhead costs and design costs have not been included in as part of the scheme.

Under the provisions of section 166 of the *Local Government Act 1989*, Council may vary the special charge to be paid. Although if the increase is an amount equal to or greater than 10% of the estimated declared cost then a further declaration would need to be made.

The estimated cost of this scheme was \$685,000 and the overall final cost of the scheme was \$798,966.26 an increase of \$113,966.26 or 16.6% over the estimated cost. The majority of this increased cost can be attributed to the cost of a new stormwater outfall.

Under the provisions of sections 163(2)(a), (2A) and (2B) the calculation of the benefit ratio as a percentage amount of the special charge to be levied was determined at 52% of the estimated scheme cost. Therefore, the maximum total levy amount that could be levied on properties at 52% of the estimated cost, is \$356,200 (being  $0.52 \times \$685,000$ ) - refer Declaration Report attached to the Council Report of 16 June 2020.

A higher final cost than the estimated cost would see an increase in the maximum total levy amount, as the final costs of the scheme would be more than the estimated cost. Based on the final cost of \$798,966.26, **the maximum total levy amount that could be levied under the scheme is therefore \$415,462.45** (e.g.  $0.52 \times \$798,966.26$ ).

In accordance with the funding framework outlined within the Residential Road and Street Construction Plan 2019, as adopted by Council, the apportioned amount to be levied against properties within a scheme is set at a maximum of \$3,600 per property, for properties located within small and coastal townships.

Under the criteria of this Plan the total levy apportionable to the properties within this scheme equates to a total of **\$60,000 (Total Levy Amount)**.

As the total levy amount of \$60,000 to be apportioned of under the scheme remains less than the adjusted maximum total levy amount \$415,462.45. No adjustment to the levy apportionment schedule for this scheme is required. Additional costs for the scheme will be funded from within Councils Roads to Recovery budgetary provisions.

A final cost certificate has been prepared for the scheme and is attached to this report, see attached **Final Cost Certificate**.

## ATTACHMENTS

1. Final Cost Certificate [**12.2.1** - 1 page]

## OPTIONS

Council has the following options available:

1. Accept the final cost certificate as presented and apportion the costs based on the original total levy amount; or
2. Accept the final cost certificate as presented and apportion the costs based on the maximum total levy amount; or
3. Not accept the final cost certificate as presented.

## PROPOSAL

That Council:

1. Adopt the Final Cost Certificate for the McMillan Street Stratford Special Charge Street Construction Scheme – Scheme No 1904; and

2. Authorise the Chief Executive Officer to prepare the final apportionment amounts due from property owners for the McMillan Street Stratford Special Charge Street Construction Scheme – Scheme No 1904 based on the total levy amount of \$60,000

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## **FINANCIAL IMPACT**

Council may, under the provisions of section 166 of the *Local Government Act 1989*, vary the liability of any property owner to pay the special charge. Where the special charge increase is equal to or greater than 10%, Council must also comply with subsections (1A), (1B) and (1C) of section 163 of the Act and redeclare the scheme which is not required in this instance.

The financial impact of adopting the Final Cost Certificate as detailed, is that property owners will not be liable for an amount above the costs initially provided under Residential Road and Street Construction Plan 2019. The Council contribution for this project is being funded through the Federal Government's Roads to Recovery program and this proposal will increase the Council contribution amount.

## **COMMUNICATION IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **LEGISLATIVE IMPACT**

This scheme was prepared in accordance with Section 163, 163A, 163B of the *Local Government Act 1989*. Notification will be in accordance with Sections 163 and 223 of the *Local Government Act 1989*.

## **COUNCIL POLICY IMPACT**

The scheme has been prepared in accordance with Council's Special Charge Schemes – Roads, Street and Drainage Development Policy 4.2.4 and the 2019 Residential Road and Street Construction Plan.

## **COUNCIL PLAN IMPACT**

The Council Plan 2021-25 Theme 4 "Services and Infrastructure" states the following strategic outcome:

**Strategic Outcome 4.3:** *"Well planned and sustainable towns, facilities, and infrastructure that service community need."*

This report supports the above Council Plan strategic outcome.

## **RESOURCES AND STAFF IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **COMMUNITY IMPACT**

The adoption of the recommendation is likely to have no impact as the apportioned cost will equal the previously proposed estimated cost

## **ENVIRONMENTAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

## **ENGAGEMENT IMPACT**

A comprehensive public consultation process has been entered into with affected property owners including:

- Information letter advising property owners proposed street scheme 23 August 2019
- Public meeting held at Stratford, 18 September 2019
- Mail out survey to all property owners, 3 October 2019
- Formal public notice under sections 163B and 223 of the *Local Government Act 1989*
- Letter with a copy of Public Notice mailed to property owners on 15 April 2020
- Letter with Levy Notice mailed out to property owners on 18 June 2020

## **RISK MANAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.

**WELLINGTON SHIRE COUNCIL**

**McMILLAN STREET (EAST) STRATFORD SPECIAL CHARGE  
STREET CONSTRUCTION SCHEME**

**SCHEME No. 1904**

**FINAL COST CERTIFICATE**

Project :        McMillan Street (East) Special Charge Street Construction Scheme.

Scheme No:    1904

Commencement date (scheme):        16/06/2020

Completion date (works):                24/06/2022

Estimated cost of scheme:                \$ 685,000.00

**Final cost of scheme:                        \$ 798,966.26**

Variation between estimated cost and final cost:        16.6% increase

Council contribution to scheme as property owner:        \$        0.00

Council contribution to scheme - public benefit:        \$ 738,966.26

Property owner contribution to scheme:        \$    60,000.00

**Total                        \$ 798,966.26**

Prepared by:                                Tilo Junge, Infrastructure Planner

Approved by:                                Sam Pye, Manager Built Environment

Adopted by Council:        \_\_\_ / \_\_\_ / 20\_\_\_

## **12.3. PROPOSED SALE OF LAND (ROAD & PARKING RESERVE) - NATIONAL PARK ROAD, LOCH SPORT**

### **ACTION OFFICER: MANAGER BUILT ENVIRONMENT**

#### **PURPOSE**

The purpose of this report is for Council to consider the proposed sale of land, being parts of a road reserve and parking reserve abutting 280 and 282 National Park Road in Loch Sport.

#### **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

#### **RECOMMENDATION**

*That:*

- 1. Pursuant to Section 114 of the Local Government Act 2020, Section 206(1) including Clause 3 of Schedule 10 and Section 223 of the Local Government Act 1989, Council resolves to advertise its intention to discontinue and to sell a section of road reserve abutting 280 and 282 National Park Road in Loch Sport by private treaty; and***
- 2. Pursuant to Section 114 of the Local Government Act 2020, Council resolves to advertise its intention to subdivide the Parking Reserve No.10 on LP58872 and to sell a section of the parking reserve abutting 280 and 282 National Park Road in Loch Sport by private treaty; and***
- 3. Place a public notice of the proposal, in a local newspaper and serve a copy of the notice on abutting property owners and statutory authorities; and***
- 4. Council appoints three Councillors plus an alternative representative to form the '280 and 282 National Park Road and Parking Reserve Committee' that is established by Council under section 223(1)(b)(i) of the Act, to consider written submissions/objections and to hear any persons who in their written submission under section 223 of the Act have been requested that they be heard in support of their submission/objection; or***
- 5. In the event of no objections, Council resolves to discontinue a section road reserve abutting 280 and 282 National Park Road and place a notice in the Victoria Government Gazette; and***
- 6. Council resolves to prepare and certify a Section 24A Plan of Subdivision under the Subdivisions Act 1988, to create a new lot from the Parking Reserve No.10 on LP58872 abutting 280 and 282 National Park Drive; and***
- 7. Council authorise the Chief Executive Officer to sell the land to the abutting property owner at no less than current market value in accordance with Wellington Shire Council Policy 3.3.5 - Sale, Exchange and Acquisition of Land and to sign and seal any documents to facilitate the transfer of land.***

#### **BACKGROUND**

The owners of the properties at 280 and 282 National Park Drive, Loch Sport have made application to Council regarding a proposal to acquire the abutting road reserve (unmade road) at the rear of their properties and to acquire the abutting parking reserve (unmade) fronting their properties, and for them to purchase these sections of land to include into their

property. The applicant is also the owner of 85, 87 and 89 Goodlett Avenue abutting the eastern boundary of the proposed road reserve to be acquired.

The proposal is for the road reserve of the unmade road abutting the rear of 280 and 282 National Park Road to be closed and sold and to create a new lot from the parking reserve fronting 280 and 282 National Park Road by subdivision, and for the section of closed road and the new lot from the parking reserve to be sold. The attached plan outlines the proposal.

The road reserve and parking reserve are described as Roads and Reserve No 10 on LP58872 and contained on Certificate of Titles 9875/368 and 9526/710. The land is currently zoned Commercial 1 Zone (C1Z).

Following an internal review by Council Officers the proposal is considered reasonable as the land is not required for current Council or community purposes in the immediate or foreseeable future. The proposal would be subject to its consolidation into the titles of 280 and 282 National Park Drive.

In proceeding with the proposal, a public notice will be placed in the local paper and copies of the public notice be served on adjacent property owners. It is proposed to notify relevant Statutory Authorities as their assets may be contained within the road or parking reserve and will require protection with an easement.

Subject to the consideration of public submissions and objections the section of road reserve will be closed and discontinued and a subdivision will be undertaken of the parking reserve to create a new lot and to retain the balance as a parking reserve and for the closed section of road along with the lot created from the parking reserve sold to the abutting landowner by private treaty at the current market value in accordance Council Policy 3.3.5 - Sale, Exchange and Acquisition of Land.

## **ATTACHMENTS**

1. National Park Road - Road and Reserve [**12.3.1** - 1 page]

## **OPTIONS**

Council has the following options available:

1. Support the sale of part of road reserve at the rear of 280 and 282 National Park Road and including a section of Parking Reserve No 10 fronting 280 and 282 National Park Road pursuant to Section 114 of the *Local Government Act 2020* and Sections 206 and 223 and Schedule 10 of the *Local Government Act 1989*; or
2. Not agree to the sale and discontinuance and advise the property owners that the Road is required for public traffic and that the Parking Reserve No 10 is required as a reserve.

## **PROPOSAL**

That:

1. Pursuant to Section 114 of the *Local Government Act 2020*, Section 206(1) including Clause 3 of Schedule 10 and Section 223 of the *Local Government Act 1989*, Council resolves to advertise its intention to discontinue and to sell a section of road reserve abutting 280 and 282 National Park Road in Loch Sport by private treaty; and

2. Pursuant to Section 114 of the *Local Government Act 2020*, Council resolves to advertise its intention to subdivide the Parking Reserve No.10 on LP58872 and to sell a section of the parking reserve abutting 280 and 282 National Park Road in Loch Sport by private treaty; and
3. Place a public notice of the proposal, in a local newspaper and serve a copy of the notice on abutting property owners and statutory authorities; and
4. Council appoints three Councillors plus an alternative representative to form the '280 and 282 National Park Road and Parking Reserve Committee' that is established by Council under section 223(1)(b)(i) of the Act, to consider written submissions/objections and to hear any persons who in their written submission under section 223 of the Act have been requested that they be heard in support of their submission/objection; or
5. In the event of no objections, Council resolves to discontinue a section road reserve abutting 280 and 282 National Park Road and place a notice in the Victoria Government Gazette; and
6. Council resolves to prepare and certify a Section 24A Plan of Subdivision under the *Subdivisions Act 1988*, to create a new lot from the Parking Reserve No.10 on LP58872 abutting 280 and 282 National Park Drive; and
7. Council authorise the Chief Executive Officer to sell the land to the abutting property owner at no less than current market value in accordance with Wellington Shire Council Policy 3.3.5 - Sale, Exchange and Acquisition of Land and to sign and seal any documents to facilitate the transfer of land.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a conflict of interest.

## **FINANCIAL IMPACT**

There are no costs to Council, with all costs borne by the property owner. Compensation for the land will be payable to Wellington Shire Council at current market value prepared by an independent licenced valuer.

## **COMMUNICATION IMPACT**

Should the proposal proceed a public notice to be given in accordance with the *Local Government Act 1989* and *Local Government Act 2020* and any submissions that are received would be considered at a future Council meeting.

A copy of the public notice will be referred to statutory authorities for clarification of any requirement that they may have with regards to assets within the land.

## **LEGISLATIVE IMPACT**

The proposal will be pursuant to Section 114 *Local Government Act 2020*, Council must publish a notice of its intention to sell land, undertake a community engagement process and obtain an independent valuation not more than six months prior to the sale.



Any submissions will be considered under Section 223 of the *Local Government Act 1989*. The proposed road discontinuance would be undertaken pursuant to Section 206(1) of the *Local Government Act 1989* including Clause 3 of Schedule 10.

### **COUNCIL POLICY IMPACT**

There is no Council policy on the closure of unused roads to public traffic and/or parking reserves with each application being treated on merit. Council's policy on the Sale, Exchange and Acquisition of Land outlines the principles in dealing with land transactions.

### **COUNCIL PLAN IMPACT**

This impact has been assessed and while it does not meet a specific Council Plan strategic outcome, it does align with Council's good governance framework.

### **RESOURCES AND STAFF IMPACT**

This impact has been assessed and there is no effect to consider at this time.

### **COMMUNITY IMPACT**

This impact has been assessed and there are not considered to be any community impacts to consider at this time.

### **ENVIRONMENTAL IMPACT**

This impact has been assessed and there is no effect to consider at this time.

### **ENGAGEMENT IMPACT**

Should Council proceed with the process to sell section of road and section of parking reserve it will be necessary for a public notice to be given. A copy of the public notice will be served on abutting and adjacent owners and statutory authorities inviting comment on the proposal in accordance with the *Local Government Act 1989* and *Local Government Act 2020*.

### **RISK MANAGEMENT IMPACT**

This impact has been assessed and there is no effect to consider at this time.

**280 & 282 NATIONAL PARK ROAD, LOCH SPORT**

**PROPOSED ROAD CLOSURE & PARKING RESERVE SUBDIVISION TO CREATE LOTS FOR SALE TO THE ABUTTING PROPERTY OWNER**



Subject Land



Proposed Road to be closed & discontinued (approx. 450 sqm.) shown:



Proposed Parking Reserve to be subdivided & sold (approx. 500sqm.) shown:



## 13. FURTHER GALLERY AND ONLINE COMMENTS

*Gallery comments are an opportunity for members of the public to raise any particular matter they wish. This allows those in the gallery to speak directly to Councillors but is not a forum designed for open discussion or debate. We will listen respectfully to what you have to say and make the commitment that if your query requires a written response, we will advise you that a response will be forthcoming, and a copy of that response will be circulated to all Councillors.*

*This is not a forum for members of the public to lodge complaints against individuals, including Councillors and staff, particularly as that individual gets no public right of reply to any matter raised. We take complaints seriously, and in line with the guidance from the Victorian Ombudsman and the local Government Inspectorate, we request that any specific complaint against an individual be put in writing. This way, your concern can be properly dealt with while ensuring fairness to all parties concerned.*

*If you wish to speak, we remind you that this part of the meeting is being recorded and broadcast on our website. Council's official Minutes will record that you have spoken to Council and the subject you spoke to Council about but will not record specific comments. We ask you to state your name in full, where you are from, and you have three minutes.*

ONLINE COMMENTS -

FURTHER GALLERY COMMENTS -

Meeting declared closed at:

The live streaming of this Council meeting will now come to a close.

## **14. IN CLOSED SESSION**

### **COUNCILLOR**

*That the meeting be closed to the public pursuant to Section 66(2) of the Local Government Act 2020 to consider matters under Section 66(5)(b) as defined by Section 3(1) being:*

- a) Council business information*
- b) Security information*
- c) Land use planning information*
- d) Law enforcement information*
- e) Legal privileged information*
- f) Personal information*
- g) Private commercial information*
- h) Confidential meeting information*
- i) Internal arbitration information*
- j) Councillor Conduct Panel confidential information*
- k) Information prescribed by the regulations to be confidential information*
- l) Information that was confidential information for the purposes of section 77 of the Local Government Act 1989*

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**IN CLOSED SESSION**

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### **COUNCILLOR**

*That Council move into open session and ratify the decision made in closed session.*