



12.2 PORT MELBOURNE SPECIAL RATE AND CHARGE COMBINED SCHEME DECLARATION REPORT- DECISION TO DECLARE

EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND ORGANISATIONAL CAPABILITY

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1. PURPOSE

- 1.1 To determine whether Council supports the declaration of the Port Melbourne Special Rate and Charge Scheme for 2021 – 2026 period.

2. EXECUTIVE SUMMARY

- 2.1 The Port Melbourne Special Rate and Charge Scheme (Special Rate) for marketing, advertising, promotion and business development expires on 30 June 2021. Port Melbourne Business Association (the Association) has formally requested that Council renew the Special Rate for a further five year period.
- 2.2 In accordance with statutory process, Council considered all submissions and objections from affected property owners and business operators at its ordinary meeting held on 2 December 2020. All written submissions were considered and no verbal submissions were lodged to be heard at this meeting.
- 2.3 Following consideration of the submissions and objections received Council needs to determine a final position on the renewal of the 2021 – 2026 Special Rate.

DISCUSSION

2.4 OPTIONS

After considering the submissions and objections in relation to the renewal of the Port Melbourne Special Rate, Council has the following Options:

- **Option 1** - Council considers all submissions and objections received in relation to the Port Melbourne Special Rate in accordance with Sections 163A, 163B and 223 of the Act and information provided by Council Officers. Council decides that there are insufficient objections (less than 51%) to abandon the special rate and proceeds to declare the Port Melbourne Special Rate Scheme. The renewed Special Rate will commence on 1 July 2021.
- **Option 2** - Council after considering written submissions and objections received in relation to the Port Melbourne Special Rate in accordance with Sections 163A, 163B and 223 of the Act decides to abandon the proposed Special Rate Renewal Statutory Process and does not declare a renewed Special Rate for Port Melbourne. The current Special Rate will expire on 30 June 2021.

3. RECOMMENDATION

That Council:

- 3.1 Having considered all submissions received and taken account of all objections lodged and complied with the requirements of sections 163A, 163B and 223 of the *Local Government Act* 1989 (the Act), and otherwise according to law, hereby declares the Port Melbourne Special Rate and Charge Scheme under section 163(1) of the Act for the purposes of defraying expenses associated with marketing, advertising, promotion



- and business development of the Port Melbourne Business Precinct as detailed in the attached draft Declaration of Special Rate (refer Attachment 1).
- 3.2 Authorises the Port Melbourne Business Association (the Association) to administer the proceeds of the Special Rate on the express condition that the Association enters into a funding agreement with Council for the period of the Special Rate.
 - 3.3 Authorises Council's Economic Growth and Activation Unit, for the purposes of paragraph 3.2 of this resolution, to prepare the funding agreement between Council and the Business Association by which administrative arrangements in relation to the Special Rate are confirmed, such agreement being to ensure that at all times, and as a precondition to the payment of any funds by Council to the Business Association, Council is, and remains legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Rate in accordance with its obligations under the Act to do so, and such funding agreement to be submitted to Council for signing.
 - 3.4 Gives notice to all owners and occupiers of properties included in the Scheme and all persons who have lodged a submission and /or objection in writing of the decision of Council to declare and levy the Special Rate commencing on 1 July 2021, and the reasons for the decision.
 - 3.5 For the purposes of paragraph 3.4 of this resolution, the reasons for the decision of Council to declare the Special Rate are that:
 - 3.5.1 There is 8.46% objection to the Scheme and it is otherwise considered that there is a broad level of support for the Special Rate from all property owners and occupiers;
 - 3.5.2 Council considers that it is acting in accordance with the functions and powers conferred on it under the Act, having regard to its role, purpose and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the Scheme area;
 - 3.5.3 All persons who are liable or required to pay the Special Rate and the properties respectively owned or 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; and
 - 3.5.4 The basis of distribution of the Special Rate amongst those persons who are liable or required to pay the Special Rate is considered to be fair and reasonable.
 - 3.6 Advises the Association of the matters specified in paragraphs 3.1, 3.2 and 3.3 of this resolution.
 - 3.7 Notes the properties that are included in the Special Rate Scheme area will be subject to general re-valuations and supplementary valuations on the same cycle as the City of Port Phillip general rates and charges.

4. KEY POINTS/ISSUES

BACKGROUND

- 4.1 Special Rate declarations and renewals are a statutory process governed by Part 8 of the *Local Government Act 1989*. Despite the enactment of the *Local*



Government Act 2020, the special rates and charges provisions of the 1989 legislation are still in force. In declaring a Special Rate or Charge or Combined Scheme, Council must consider that:

- 4.1.1 the proposal relates to the performance of a function authorised under Section 163 of the Act;
 - 4.1.2 there will be a special benefit to those persons liable to pay the Special Rate levy; and
 - 4.1.3 there is a reasonable distribution of the rate amongst those persons liable to pay the Special Rate levy.
- 4.2 On 2 January 2020, the Association requested that Council begin the statutory process to renew the Port Melbourne Special Rate and Charge Combined Scheme for a further five years, from 1 July 2021 to 30 June 2026.
 - 4.3 Due to COVID-19, on 17 March, Council received a request from the Chair of the Association for consideration of an extension of the special rate for an additional year, given the current economic climate. Council officers considered that an extension was not possible under the Act. Advocacy was undertaken with the office of the Minister for Local Government about options to provide support in the current environment. Officers also explored other opportunities such as suspension of the rate for a period, however, without an alternate income source this option was not viable for the PMBA and as a result was ultimately not pursued.
 - 4.4 In May/June 2020, the Association visited all open businesses in the precinct (214) and undertook a business poll to gauge support for striking a new Special rate, given the difficult economic climate, and received signed support from 114 businesses for this renewal, which was 54% of business open at that time. At the time, just over half of the businesses in the precinct were open, which amounted to 214 out of the total of 390 businesses in the precinct. Council was advised that the Association (PMBA) would like to proceed with the renewal process.
 - 4.5 The proposed new Scheme is for a further five year period (2021 – 2026) and includes 390 properties. The proposed Boundary Map is attached (Attachment 2) and eleven businesses are closed permanently or excluded from the Scheme boundary, resulting in less properties being included in the Scheme.
 - 4.6 The proposed 2021 – 2026 Scheme is modelled to raise a maximum of \$1,600,000 over the five year period which equates to \$320,000 per annum.
 - 4.7 At the ordinary meeting of Council held on the 5 August 2020, having otherwise considered all relevant matters, Council resolved to commence the statutory process in August 2020 under the Local Government Act 1989 to renew a Special Rate and Charge Combined Scheme to and for the properties within the defined Port Melbourne Business Precinct. In accordance with Council's statutory obligations under sections 163(1A) and 163B(3) of the Act, a public notice was published in *The Age* on the 17th August 2020. All affected property owners and occupiers were sent letters detailing the proposed Special Rate. The statutory process commenced the 17th August 2020 and concluded at 5pm on Monday 21 September 2020.
 - 4.8 Within the statutory period, between 17 August until the 21 September 2020, 20 written submissions were received by Council (refer Attachment 3) and included:



- 4.8.1 Two property owners representing two properties seeking an exemption of the scheme
- 4.8.2 11 property owners representing 31 properties who object to the proposed scheme
- 4.9 The total number of objections received equates to 8.46% of the total proposed rateable properties (390).
- 4.10 Section 163B(6) of the Act states that Council cannot make a declaration of special rate if it receives objections from a majority of the rateable properties in respect of which the special rate would be imposed (that being 51%). In this case, Council has not received a majority of objections to the proposed Scheme.
- 4.11 At an ordinary Meeting of Council held on 2 December 2020, in accordance with statutory process, Council considered all submissions and objections from affected property owners and business operators. All written submissions were considered and no verbal submissions were lodged to be heard at this meeting. A vote to move to determine a final decision in February 2021 was taken and the Motion was carried unanimously.
- 4.12 Council must consider all submissions and objections received in relation to the Special Rate in accordance with Sections 163A, 163B and 223 of the *Local Government Act 1989* (the “Act”) prior to making a decision regarding the declaration of the Port Melbourne Special Rate and Charge Scheme.

5 CONSULTATION AND STAKEHOLDERS

- 5.1 Notification of Council’s Intention to Declare the Port Melbourne Special Rate for the marketing, promotion and business development of Port Melbourne Business Precinct was published in *The Age* on the 17th August 2020. All affected property owners and occupiers were sent letters detailing the proposed Special Rate and were given until 21 September 2020 to submit any objections or requests for exemptions.
- 5.2 An email confirming receipt was sent to each person who lodged a submission or objection during the statutory period. The email outlined notification of the resolution passed by Council on 5 August 2020, noted that submissions would be heard on 2 December 2020 and provided details to submitters on their ability to elaborate on their submission/objection at this Council meeting.
- 5.3 Council considered all submissions and objections from affected property owners and business operators at its ordinary meeting held on 2 December 2020. No verbal submissions were lodged at this meeting. A vote to move to determine a final decision in February 2021 was taken and the Motion was carried unanimously.

6 LEGAL AND RISK IMPLICATIONS

The risks associated with the proposal are limited by the following:

- 6.1 If the Scheme is declared, the Association (PMBA) will enter into a formal funding agreement with Council for the duration of the Scheme which outlines the specific purposes for which the funds can be spent.
- 6.2 The Association (PMBA) is required to submit financial reporting documentation to Council every six months (profit and loss, balance sheet and marketing activity report). Scheme monies will not be paid to the PMBA until all reporting is received and accepted.



- 6.3 The Association (PMBA) must be an incorporated entity through the life of the Scheme and must act in accordance with the *Associations Incorporation Reform Act 2012*.
- 6.4 The Association (PMBA) is required to develop and adopt its five year Business Plan, prior to the commencement of the new Scheme, to guide expenditure of the funds.
- 6.5 The Association (PMBA) is to expend the monies raised by the Scheme on behalf of Council as an administrator of the funds, is at all times bound by the funding agreement with Council and is acting under the direction and approval of Council in respect to the expenditure of the Special Rate proceeds. Pursuant to the funding agreement to be entered into, Council shall reserve all discretions relevant to the application of the proceeds of the Scheme. Section 164 of the Act enables Council to discontinue the Scheme if there is any inappropriate expenditure.
- 6.6 If Council does not wish to renew the Port Melbourne Scheme there may be an expectation from commercial precincts that Council will fund marketing and promotion activities for those precincts.

7 FINANCIAL IMPACT

- 7.1 Council incurs administrative costs for the renewal of the Port Melbourne Scheme. These have been included in the 2020/2021 budget.
- 7.2 If the Scheme is successfully renewed, ongoing staff resources will be required within Council to monitor the Scheme, this will be funded from the operational budget.
- 7.3 Council administers the collection of the funds for the life of the Scheme and distributes the funds to PMBA in two half-yearly instalments after it completes rigorous reporting requirements.

8 ENVIRONMENTAL IMPACT

- 8.1 A financially sustainable Business Association allows Council to work with Port Melbourne businesses on sustainable best practice programs that will reduce emissions, waste and energy usage and achieve improved sustainability outcomes.
- 8.2 Vibrant local activity centres provide local residents with the opportunity to shop locally and sustainably by walking, cycling or taking public transport to access their centre rather than driving.

9 COMMUNITY IMPACT

- 9.1 Vibrant activity centres are critical to the health and development of the local community. Centres provide employment, community meeting places, resources, leisure opportunities and essential services to the community. Due to the effects of the 2020 global pandemic and economic recession, ensuring that we have strong resilient activity centres over the next five years is crucial to the health and well-being of the local community.

10 ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 **Strategic Direction 1 – We embrace difference and people belong** – A successful business/retail precinct provides a multitude of services to the local and wider community to ensure Port Phillip's outcome of ensuring community has access to services that support the health and wellbeing of our growing community. Shopping strips are meeting places, a place where the community can shop, recreate and meet as well as access a range of services. A community that is connected is a healthy



community and business precincts provide connectivity opportunities that are vital to the local and wider community.

- 10.2 **Strategic Direction 3 – We have smart solutions for a sustainable future** – There is opportunity for Council to work with Business Associations to educate and examine ways to ‘green’ businesses including waste reduction, energy usage, sustainable design and use of sustainable transport.
- 10.3 **Strategic Direction 4 – We are growing and keeping our character** – A successful business/retail precinct underpins the liveability of a high density city, like Port Phillip and is pivotal in creating a city of diverse and distinctive neighbourhood and places.
- 10.4 **Strategic Direction 5 – We thrive by harnessing Creativity** – Special Rate funds empower the business community to actively and creatively market, promote and develop their precinct to maintain vibrancy and economic viability and also to provide the community with a well-resourced business precinct that provides excellent services, gathering places and employment. It is pivotal to achieving two of the city’s key outcomes under this Strategic Direction; Creating a City of dynamic and distinctive retail precincts and; Creating a prosperous city that connects and grows business

11 IMPLEMENTATION STRATEGY

11.1 TIMELINE

If Council resolves to declare the renewal of the Port Melbourne Special Rate and Charge Combined Scheme for a further five years, from 1 July 2021 to 30 June 2026:

- 11.1.1 February 2021 - Council advises the Port Melbourne Business Association of the Council decision and commences drafting a formal funding agreement with the Association (PMBA) for the duration of the Scheme which outlines the specific purposes for which the funds can be spent.
- 11.1.2 Late February 2021 - Council advises, by letter, all the affected property and business owners of the decision regarding the renewal of the Port Melbourne Special Rate, and including all persons who lodged a submission with Council.
- 11.1.3 If the decision is to declare, then between 1 March to 1 May, there will be a statutory opportunity for lodging appeals with VCAT against Council’s declaration of Special Rate and Charge.
- 11.1.4 If there is a VCAT objection lodged, Council will need to prepare a response to the objection and also consider the levy collection and distribution timeline till the objection is heard and determined.
- 11.1.5 Council will then advise VCAT of its Declaration.
- 11.1.6 Council will advise the Traders Group of its decision.
- 11.1.7 If no objections are lodged with VCAT, Council will commence the new Port Melbourne Special Rate and Charge Combined Scheme on 1 July 2021.

If Council resolves not to declare the Port Melbourne Special Rate Scheme at its meeting on 2 February 2021, then Council will advise the Association and all affected property and business owners in writing of this decision and the renewed scheme will not proceed.

11.2 COMMUNICATION



- 11.2.1 February 2021 - Council advises the Port Melbourne Business Association of the Council decision and commences drafting a formal funding agreement with the Association (PMBA) for the duration of the Scheme which outlines the specific purposes for which the funds can be spent.
- 11.2.2 Early March 2021 - Council advises, by letter, all the affected property and business owners of the decision regarding the renewal of the Port Melbourne Special Rate, and including all persons who lodged a submission with Council. Affected properties will have 30 days in which to lodge an objection with VCAT.
- 11.2.3 If there is a VCAT objection lodged, Council will need to prepare a response to the objection and also consider the levy collection and distribution timeline till the objection is heard and determined.
- 11.2.4 Council will then advise VCAT of its Declaration.
- 11.2.5 Council will advise the Association (PMBA) of its decision.
- 11.2.6 If no objections are lodged with VCAT, Council will commence the new Port Melbourne Special Rate and Charge Combined Scheme on 1 July 2021.
- 11.2.7 Affected property owners will receive their levy notification via their rates notice in August 2021.

If Council resolves not to declare the Port Melbourne Special Rate Scheme at its meeting on 2 February 2021:

- 11.2.8 Council will advise, by letter, the Association and all affected property and business owners of this decision and the renewed scheme will not proceed.

12 OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

TRIM FILE NO: F20/1

ATTACHMENTS

1. Attachment 1 - Port Melbourne Special Rates Renewal - Declaration 2021 - 2026
2. Attachment 2 - Port Melbourne Special Rates Renewal - 2021 - 2026 Bounday Map
3. Attachment 3 - Port Melbourne Special Rates Renewal - submissions and objections