



14.2 PORT MELBOURNE BUSINESS ASSOCIATION 2021-2026
SPECIAL RATE REVIEW - CONSIDER SUBMISSIONS

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

PREPARED BY: CARINE BOURCIER, INDUSTRY DEVELOPMENT COORDINATOR

1. PURPOSE

- 1.1 To consider the written submissions and objections received by Council and to hear persons speaking in support of their submissions and objections pursuant to the statutory process to renew the Port Melbourne Special Rate and Charge Scheme for 2021 – 2026.

2. EXECUTIVE SUMMARY

- 2.1 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.
- 2.2 In June 2020, the Port Melbourne Business Association (“the **PMBA**”) collected business support signatures from 114 businesses out of 214 businesses that were open at that time, which assisted in gauging whether there was enough support to move forward with the renewal.
- 2.3 Within the statutory consultation period, between 17 August until the 21 September 2020, Council received.
- Two submissions from property owners representing two properties seeking an exemption from the Scheme (which Council officers have also deemed as objections to the proposed Scheme); and
 - 18 objections from 11 property owners representing 31 properties objecting to the proposed Scheme (eight businesses from these properties signed the PMBA letter of support for the Scheme in June 2020).
- 2.4 Council officers calculate the total number of objections to therefore be 33 objections, which equates to 8.46% of the total proposed rateable properties included in the Scheme (being 390 properties).
- 2.5 The majority of the objections were based on financial hardship for both landlords and businesses, due to the effects of the global pandemic and economic recession leading to an uncertain future over the next five years and the belief that they received little to no benefit to business or actual economic benefit of the Scheme for local business.
- 2.6 A summary of the submissions and objections are outlined in the attached table (Attachment 1), and the property owners that offered their submissions and objections have been invited to speak to their submissions and objections at this meeting. Copies of all the submissions and objections received have been provided to all Councillors with their agenda papers for the Council meeting.
- 2.7 All submitters were encouraged to contact the PMBA to discuss participation in the planning and selection of activities, access to past financial reports and participating in the determination of the spending of the Special Rate levy.



- 2.8 In considering and hearing the submissions and objections and deciding in February 2021, whether to declare the Special Rate, consideration should be given to the following:
- 2.8.1 Whether the distribution of the Special Rate on properties liable to pay it is fair and equitable (refer to benefits levels outlined in **Attachment 2**) and that all affected properties will receive a special benefit as a result of the Special Rate and Charge Scheme.
- 2.8.2 Whether there is a need to modify the Special Rate due to inaccuracies within the public notice or abandon the proposed Special Rate. 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

3. RECOMMENDATION

That Council:

- 3.1 Considers all written submissions and objections and hears persons who have requested to speak in support of their submissions and objections in respect to the renewal of the Port Melbourne Special Rate and Charge Scheme 2021-2026 and in accordance with sections 163A, 163B and 223 of the *Local Government Act 1989*.
- 3.2 Notes it will make a formal decision on this matter at its ordinary meeting in February 2021 as to whether to declare the Port Melbourne Special Rate and Charge Scheme 2021-2026 for the Port Melbourne Business Precinct.

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, Council received a letter from PMBA requesting 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 Special Rate for a period, however, without an alternate income source, this option was not viable for the PMBA, and as a result it was ultimately not pursued

- 4.4 In May/June 2020, PMBA visited all open businesses in the precinct (214 businesses) and undertook a business poll to gauge support for striking a new Special Rate, given the difficult economic climate. The PMBA received signed support from 114 businesses for this renewal, which was 54% of businesses 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 PMBA would like to proceed with the renewal process.
- 4.5 The current Scheme (2016-2021) includes 401 properties and levies a maximum of \$1,300,000 over the five year period, equating to \$260,000 per annum.
- 4.6 The proposed new Scheme is for a further five year period (2021 – 2026) and includes 390 properties. The proposed Boundary Map is attached (Attachment 5) and eleven businesses are closed permanently or excluded from the Scheme boundary, resulting in less properties being included in the Scheme.
- 4.7 The proposed 2021 – 2026 Scheme is modelled to raise a maximum of \$1,600,000 over the five year period. This equates to \$320,000 per annum, which equates to an average increase per annum of 4.6%. This overall percentage increase takes into account estimated CPI increases over the duration of the Scheme and some additional activity, to be determined as the Business Plan is developed.
- 4.8 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, such Special Rate and Charge Combined Scheme is to raise a maximum amount of \$320,000 per annum up to a maximum of \$1,600,000 in total for a period of five years, commencing on 1 July 2021 and ending on 30 June 2026.
- 4.9 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, outlining the details of the proposed declaration of Special Rate and Charge Combined Scheme. This public notice commenced the statutory consultation process. The process concluded at 5pm on Monday 21 September 2020.
- 4.10 On Thursday 13 August 2020 Council sent separate letters to all affected property owners and occupiers within the proposed Port Melbourne boundary, advising of the Intention to Declare the Port Melbourne Special Rate and Charge Scheme, the commencement of the statutory process including a copy of the public notice and an estimation of the levy that would be applied to the property in the 2021 – 2022 year

KEY POINTS:

- 4.11 The City of Port Phillip currently has three Special Rate schemes in operation – Port Melbourne, Acland Street Village and Fitzroy Street. All Port Phillip schemes incorporate the collection of a levy from commercial properties within a defined geographic area, for the sole purpose of marketing, promotion and business development of the specified activity centre.
- 4.12 All funds collected are distributed to the relevant incorporated Business Association under a funding agreement with Council.



- 4.13 The first Port Melbourne Special Rate and Charge Combined Scheme was declared in 2001 for a period of five years. The scheme has been renewed three times since then, in 2006, 2011 and 2016.
- 4.14 The current Scheme (2016-2021) includes 401 properties and levies a maximum of \$1,300,000 over the five year period, equating to \$260,000 per annum.
- 4.15 The PMBA, during the current Scheme, has submitted all the required reporting on time and has delivered activities and programs within the Port Melbourne Business Precinct in line with the purpose of the Scheme levy. As an Incorporated Body, it has also complied with the reporting outlined in the *Associations Incorporations Reform Act 2012*.
- 4.16 The proposed new Scheme is for a further five year period (2021 – 2026) and includes 390 properties. The proposed Boundary Map is attached (Attachment 5) and eleven businesses are closed permanently or excluded from the Scheme boundary, resulting in less properties being included in the Scheme.
- 4.17 If redevelopments occur within the proposed Scheme boundary, those properties that are already levied will be adjusted, any new eligible properties that have not previously been levied will not be added to the Scheme. Any property that changes from commercial, retail, leisure, tourism or light industrial to residential use will be removed from the Scheme. Amendments to the Scheme will occur from the date the supplementary valuation changed the property's Land Classification Code.
- 4.18 Properties exempt from paying the Scheme Levy include:
- all residential properties within the proposed Scheme Boundary;
 - properties on Crown Land; and
 - properties classified as being used for religious or community/not for profit purposes.
- 4.19 The PMBA is currently developing its Business Plan for the proposed renewed 2021 – 2026 Scheme. It is expected that this will be finalised for the implementation of the new Scheme and will form part of the new funding agreement with Council.
- 4.20 The renewed Scheme will enable the ongoing program of marketing, promotion and business development of the Port Melbourne and Bay Street Business Precinct. In particular it will fund the ongoing engagement of a precinct Marketing Coordinator.
- 4.21 It is considered that the value of the properties included in the Scheme, their desirability as a letting proposition and their general image will be enhanced by the activities generated from the Scheme funds. This is considered to be of special benefit both directly and indirectly to all businesses and property owners located with the proposed Scheme boundary.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 A public notice was published in the Age Newspaper on the 17th August 2020, outlining the details of the proposed declaration of Special Rate and Charge Combined Scheme. This public notice commenced the statutory consultation process. The process concluded at 5pm on Monday 21 September 2020.
- 5.2 On Thursday 13 August 2020 Council sent separate letters to all affected property owners and occupiers within the proposed Port Melbourne boundary, advising of the Intention to Declare the Port Melbourne Special Rate and Charge Scheme, the



commencement of the statutory process including a copy of the public notice and an estimation of the levy that would be applied to the property in the 2021 – 2022 year.

- 5.3 Council has acknowledged receipt of all submissions and objections and has provided details of the Council meeting at which those persons may speak to their submission if they wished.

6. LEGAL AND RISK IMPLICATIONS

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

- 6.1 If the Scheme is declared, 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 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 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 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 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.

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 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 outcome of ensuring community has access to services that support the health and wellbeing of our growing community. Shopping strips and villages 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.
- 10.5 **New Economic and Social Recovery Program** - As the COVID19 pandemic continues to negatively affect businesses and community in the Municipality, and with forecasts estimating it will take years to recover, now more than ever is the requirement to support the Business and retail precincts.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 2 Dec 2020 - Council hears and considers Submissions and Objections
- 11.1.2 February 2021 Ordinary Council meeting - Council considers whether to declare (or not) the Port Melbourne Special Rate 2021-2026.
- 11.1.3 Feb 2021 - Council advises the Port Melbourne Business Association of the Council decision.
- 11.1.4 Late Feb 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.
- 11.1.5 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.

11.2 COMMUNICATION

- 11.2.1 Council advises the Port Melbourne Business Association of Council's decision regarding the Port Melbourne Special Rate and Charge Scheme.



MEETING OF THE PORT PHILLIP CITY COUNCIL 2 DECEMBER 2020

- 11.2.2 Late Feb 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.

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. Submissions & Objections - Port Melbourne Association 2021-2026 Special Rate Review