

2.1 PROPOSED SPECIAL RATE AND CHARGE SCHEME FOR THE CLAYTON ACTIVITY CENTRE

Responsible Committee: Section 223 Committee of Council

Responsible Director: Russell Hopkins

RECOMMENDATION

That:

1. *Council receives and notes the:*
 - a) *submissions received; and*
 - b) *recommendation of the Committee established by Council to hear submitters, in respect of the proposal to declare a Special Rate and Charge Scheme for the Clayton Activity Centre, in accordance with section 223 of the Local Government Act 1989 which resolved to recommend that Council proceeds with the Declaration of the Special Rate and Charge Scheme for the Clayton Activity Centre.*
2. *Council declares the Clayton Activity Centre Special Rate and Charge (Clayton Activity Special Levy) in accordance with section 163 of the Local Government Act 1989 as follows:*
 - a) *the Clayton Activity Centre Special Levy be declared for a period of 5 years commencing on 1 March 2023 and concluding on 29 February 2028;*
 - b) *the Clayton Activity Centre Special Levy be declared for the purpose of defraying marketing, management, business development and other incidental expenses associated with the encouragement and development of commerce, trade and associated employment in the Clayton Activity Centre, which:*
 - i. *Council considers is or will be of special benefit to those persons required to pay the Clayton Activity Centre Special Levy; and*
 - ii. *arises out of Council's functions of:*
 - A. *encouraging and promoting economic sustainability, commerce, retail activity and employment opportunities in and around the Clayton Activity Centre; and*
 - B. *providing good governance in its municipal district for the benefit and wellbeing of the municipal community;*
 - c) *the Clayton Activity Centre Special Levy applies to all rateable land primarily used or adapted or designed to be used for retail, commercial or entertainment purposes, being the following land at ground level and above ground level:*
 - i. *276 to 366 Clayton Road, Clayton;*
 - ii. *317 to 409 Clayton Road, Clayton;*
 - iii. *125-151 Carinish Road, Clayton;*
 - iv. *348 to 390 Haughton Road, Clayton;*
 - v. *35 to 45 and 18 Dunstan Street, Clayton;*
 - vi. *1389 to 1395 Centre Road, Clayton; and*

- vii. 2 Cooke Street, Clayton;
- d) the total cost of performing the function and the maximum amount of the Clayton Activity Centre Special Levy to be levied is approximately \$101,221.40 per annum, equating to a maximum of approximately \$506,107 over a period of 5 years, exclusive of any CPI and CIV adjustments as outline in points h), i) and j) below, or such other amount as is lawfully levied as a consequence of this Resolution;
- e) there will be a special benefit to persons required to pay the Clayton Activity Centre Special Levy because the viability of the Clayton Activity Centre will be enhanced through increased commerce and business activity;
- f) the benefit ratio, being the estimated proportion of the total benefits of the Clayton Activity Centre Special Levy (including all special benefits and community benefits), that will accrue as special benefits to all the persons who are liable to pay the Clayton Activity Centre Special Levy is in a ratio of 1:1 (or 100%), on the basis that the community benefit is nil;
- g) the criteria which forms the basis of the Clayton Activity Centre Special Levy is the ownership of the land described in paragraph (2)(c) of this Resolution;
- h) the Clayton Activity Centre Special Levy be assessed and levied at 0.00034 of the Capital Improved Value (CIV) of the subject property as at the date of declaration, or as a fixed minimum Special Charge of \$200 per annum, whichever is greater, and with a fixed maximum Special Charge of \$2,000, with the first period being a part year pro rata from 1 March 2023 to 30 June 2023, and the final year pro rata from 1 July 2027 to 29 February 2028;
- i) the CIV of each property to which the Clayton Activity Special Levy will apply is the CIV applicable to it at the time of levying the Clayton Activity Centre Special Levy for the first year, and then as at 1 July in each subsequent year of the Scheme, noting that the CIV may change in the period during which the Clayton Activity Centre Special Levy is in force, reflecting any revaluations and supplementary valuations which take place.
- j) The Clayton Activity Centre Special Levy will be adjusted each year by an amount equal to the March Quarter Consumer Price Index (CPI) as published prior to the annual Clayton Activity Centre Special Levy renewal at 1 July for each year of the Scheme, with the first adjustment to be made on 1 July 2024.
- k) the Clayton Activity Centre Special Levy be levied by sending notices to the persons liable to pay it, with payments to be made either in four instalments or a lump sum, in accordance with Council's general rate collection process.
3. Council's Chief Executive Officer be authorised to:
- a) notify each person who made a submission or objection of Council's decision and reasons for the decision;

- b) *write to the owners and occupiers of properties within the Clayton Activity Centre Special Levy advising them of the decision embodied in this Resolution and associated appeal rights; and*
- c) *enter into an agreement with the Clayton Traders Association in relation to expenditure of the Clayton Activity Centre Special Levy proceeds.*

INTRODUCTION

This report considers the response and outcome of the public notification process undertaken pursuant to S.223 of the *Local Government Act 1989* for the proposed introduction of a Special Rate and Charge Scheme for the Clayton Activity Centre.

BACKGROUND

On 13 December 2022, Council considered a report on the proposed introduction of a Special Rate and Charge Scheme for the Clayton Activity Centre and resolved as follows:

That:

1. Council notes that:

- a) *The Clayton Traders Association (CTA) has been canvassing traders in the Clayton Activity Centre on the proposal for a Special Rate and Charge Scheme (Clayton Activity Centre Special Levy) since March 2022.*
- b) *Trading conditions, COVID-19 impacts and initial SRLA works have made consultation and contacting business owners difficult which may have contributed to the low level of trader engagement.*
- c) *The CTA has had some difficulty in contacting business and landowners and has not obtained written support from a majority of traders for the proposal.*
- d) *The information submitted by the CTA does not show either majority support or majority opposition to the introduction of the Clayton Activity Centre Special Levy.*
- e) *The CTA consultants' interpretation of the "no response" and "awaiting response" as "support" potentially overstates the actual level of trader support for the proposed Special Levy and introduces a further element of risk of failure of the proposal should Council proceed to formal notice of the proposed Clayton Activity Centre Special Levy.*
- f) *The officer assessment of the responses to the CTA consultation process shows approximately 33% confirmed support, 7% not supporting and 61% either no response or vacant.*
- g) *Given the relatively low level of response indicating an objection to the proposed Clayton Activity Centre Special Levy and the difficulties experienced by the CTA in undertaking consultation and obtaining feedback, although not without risk, there is some merit in*

- undertaking a formal consultation process under the Local Government Act 1989.*
- 2. Council resolves to give Notice of its Intention to Declare a Special Rate and Charge for the Clayton Activity Centre, commencing 1 March 2023.*
 - 3. The following matters constitute the proposed declaration:*
 - a) The Clayton Activity Centre Special Rate and Charge (Clayton Activity Centre Special Levy) will be declared for the purpose of defraying marketing, management, business development and other incidental expenses associated with the encouragement and development of commerce, trade and associated employment in the Clayton Activity Centre.*
 - b) In declaring the Clayton Activity Centre Special Levy, Council will be performing functions of:*
 - i. encouraging and promoting economic sustainability, commerce, retail activity and employment opportunities in and around the Clayton Activity Centre; and*
 - ii. providing good governance in its municipal district for the benefit and well-being of the municipal community.*
 - c) The total cost of performing the function and amount of the Clayton Activity Centre Special Levy to be levied is approximately \$125,370 per annum, equating to a total amount of approximately \$626,850 over a period of 5 years, exclusive of any CPI and CIV adjustments as outlined in points g), h) & i) below, and such other amount as is lawfully levied as a consequence of the declaration.*
 - d) The Clayton Activity Centre Special Levy is to commence on 1 March 2023 and continue for a period of 5 years to 29 February 2028.*
 - e) The Clayton Activity Centre Special Levy will apply to all rateable land primarily used or adapted or designed to be used for retail, commercial or entertainment purposes, being the following land at ground level and above ground level:*
 - i. 276 to 366 Clayton Road, Clayton*
 - ii. 317 to 409 Clayton Road, Clayton*
 - iii. 125 to 151 Carinish Road, Clayton*
 - iv. 384 to 390 Haughton Road, Clayton*
 - v. 35 to 45 and 18 Dunstan Street, Clayton*
 - vi. 1389 to 1395 Centre Road, Clayton*
 - vii. 2 Cooke Street, Clayton.*
 - f) The criteria which forms the basis of the Clayton Activity Centre Special Levy is the ownership of the land described in the area set out above.*
 - g) The Clayton Activity Centre Special Levy is to be assessed and levied at 0.0004 of the Capital Improved Value (CIV) of the subject property as at the date of declaration, or as a fixed Special Charge of \$200, per annum, whichever is greater, with the first period being a part year pro rata from 1 March 2023 to 30 June 2023, and the final year pro rata from 1 July 2027 to 29 February 2028.*

7. *The proceeds of the Clayton Activity Centre Special Levy be expended on activities and programs which -*
- a) *provide incentives to shop and do business within the Clayton Activity Centre;*
 - b) *strategically plan the fostering of business growth within the Clayton Activity Centre;*
 - c) *enhance customer service, pride and excellence in business within the Clayton Activity Centre; and*
 - d) *improve the commercial viability of the Clayton Activity Centre.*

Public Notification

A public notice advising of Council's *Intention to Declare* a Special Rate and Charge for the Clayton Activity Centre was published in The Age Newspaper and on Council's website on 16 December 2022 inviting submissions on the proposal to be received by 20 January 2023.

Letters were also sent to all owners and occupiers in the proposed Special Rate and Charge Area.

Public Response

In response to the Public Notification process:

- 8 separate submissions in support were received (Confidential Attachment 1)
- 3 individual objections were received (Confidential Attachment 2)
- 54 signed support forms have been submitted. (Confidential Attachment 3).

Copies of these submissions and support forms have been provided to Councillors as confidential attachments to this report on the basis that their public disclosure would involve the unreasonable disclosure of information about the personal affairs of the submitters.

S.223 Committee Meeting

The Section 223 Committee met at 6.30pm on 14 February 2023 in the Council Chambers to consider the submissions received in respect of this proposal and the outcome of the public notification process generally.

The Mayor and the Oakleigh Ward Councillors comprised the Special Committee appointed by Council for this purpose.

The agenda of the Section 223 Committee was to consider the written submissions received and hear any verbal presentations in support of them.

The Committee resolved to recommend to Council that it:

Proceeds to Declare a Special Rate and Charge Scheme for the Clayton Activity Centre amended to lower the rate to be assessed and levied from 0.0004 of the Capital Improved Value (CIV) of the subject property as at date of declaration to 0.00034 of the CIV, with a minimum amount payable of \$200pa, and with a maximum amount payable of \$2,000pa*.*

** Subject to CPI as per full declaration.*

POLICY IMPLICATIONS

The implementation of the Special Charge is consistent with the Council Plan 2021-2025 and “*Growing Prosperity through Diversity*” *Economic Development Strategy & Action Plan 2018*, which encourages active business associations in Activity Centres.

In particular, *Section 2 Retail and Commercial Activity Centres* of the Economic Development Strategy recognises that Monash Retail and Commercial Activity Centres are at the core of our neighbourhoods providing localised access to products, services and employment:

Objective 2.3 Support the ongoing development of contemporary, vibrant and economically viable retail and commercial Activity Centres.

Planned and Current Actions

- Encourage and provide support for the establishment of sustainable and active Traders Associations in Activity Centres
- Administer special charge schemes for marketing, promotion and business development for established trader group special charge levies

CONSULTATION

Consultation regarding the *Intention to Declare* a Special Charge Scheme for the Clayton Activity Centre has been completed in accordance with Council’s statutory obligations pursuant to Section 163 of the Local Government Act 1989. No further consultation is required.

FINANCIAL IMPLICATIONS

The proposed Special Rate and Charge will generate approximately \$101,221.40 each year. These funds are designated specifically to the further promotion and marketing of the Centre and the facilitation of business development and networking opportunities for people operating businesses in the Centre.

Council, in establishing the Special Rate and Charge Scheme, will essentially act as an agent for collecting and overseeing the expenditure of the funds for CTA. The CTA will then use these funds for the marketing and promotion of the Centre, consistent with the purpose for which the Special Charge and Rate Scheme has been declared.

The funds will be transferred to the CTA on a quarterly basis, pro rata. An agreement will be entered into between Council and the CTA which sets the standards for management of those funds by the CTA to ensure that the funds are acquitted in accordance with the Business Plan and the Local Government Act 1989.

CONCLUSION

The proposal to Declare a Special Rate and Charge Scheme for the Clayton Activity Centre will support and enhance the success and vibrancy of the Centre.

Special Charges are a common method for Trader groups such as the CTA to fund their activities independently of public funds. These Schemes successfully operate in retail activity centres throughout metropolitan Melbourne.

The CTA has set out a clear Business and Marketing Plan for the funds collected through the Special Rate and Charge.

Accordingly, it is considered appropriate to proceed to the formal notification process for the Declaration of a Special Rate and Charge for the Centre.