

Eltham Town Special Rate Scheme Renewal

Summary of Submissions

Attachment 1 – Policy and Services Committee Meeting of Council 7 June 2016

No.	Business/ Proprietor	Submission Summary	Response
1	Lorna Bliem, R. Bliem & Associates Pty Ltd, Suites 9- 10, 23 Dudley Street, Eltham	Supporting the scheme renewal. <i>'This scheme benefits all the traders by providing funds which can be spent on behalf of all traders for purposes such as marketing and promotion of businesses and also for providing activities, services and goods that traders would struggle to pay for on their own. These funds provide for a coordinated approach to promoting local businesses.'</i>	Noted
2	Fee Sievers, President, Eltham Chamber of Commerce & Industry, 18 Diamond Street, Eltham	Supporting the scheme renewal on behalf of the ECCI Committee of Management. <i>'The Special Rate scheme supports local business, promotes and markets the traders and their businesses and creates a sense of welcome for shoppers who come to eat, drink and purchase goods.'</i> <u>The ECCI President requested to be heard.</u>	Noted
3	B.R. Smyth, 191 Mt Pleasant Road, Eltham Representing the following properties: 9 Dudley St, (shops 1-10); 1006 Main Rd; 1008 Main Rd; 970 Main Rd; 900 Main Rd;	Objecting to the proposed renewal stating that it is 'imposition', therefore affirming that the property owners don't want Council to declare the special rate on them. <i>'It is an imposition to consult temporary lessees of business premises (as the Chamber of Commerce, inter alia, are now doing) when the owners are to be levied for payment as a result of agreements to which they are not a party and may not even be aware of.'</i>	This submission refers to 20 properties. Many of these properties already submitted separate objections and /or responded to the trader's survey. The Marketing Officer and the Chamber President together with other committee members visited most of the businesses in February 2016 to gauge the level of support and answer queries regarding the proposal. The initial feedback from this consultation was very positive and received over 110 signed letters in support of the Special Rate scheme renewal. The Special Rate renewal process commences with the Council resolution of Intention to Declare and formally advises all ratepayers and businesses in the Special Rate scheme area.

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	<p>929 Main Rd; 931 Main Rd; 933 Main Rd; 22, 40 & 50 Commercial Place.</p> <p>Please note that there is no support documentation for the ownership of these properties.</p>	<p><i>My specific submission is that your Council should not consider imposition of a special rate without a survey of the rate payers and the consent of majority of those rate payers.'</i></p>	<p>"... Following the receipt of a written request from the Eltham Chamber of Commerce and Industry to renew the Special Rate scheme to fund the marketing and promotion of the Eltham Town, Council at its Ordinary meeting on 22 March 2016 resolved to give notice of its intention to declare a Special Rate for that purpose.</p> <p>In accordance with the requirements of the <i>Local Government Act 1989</i> formal notification of the proposed Special Rate scheme was undertaken, with a public notice published in the Diamond Valley Leader on 30 March 2016 and also by written notification being sent to the owners and occupiers of properties upon which the Special Rate would be levied ..."</p>
4	<p>Bruce Holland, Gartman Inc. Pty Ltd, Midway Arcade Property Trust, P.O. Box 63, Eltham</p> <p>This submission refers to 3 shops, 972 Main Road (1-2, 3-8, 9-13)</p> <p>These properties already submitted a separate objection.</p> <p>Please note that there is no support documentation for the ownership of these properties.</p>	<p>Objecting to the proposed renewal.</p> <p><i>'The special rates have not in the past delivered any tangible benefit to the owners or tenants of the Eltham Town properties.</i></p> <p><i>As owners and tenants ourselves for some 50 years we have meekly paid up for special rates and car parking levies only to see the funds poorly administered and in many cases wasted as demonstrated by the many versions of the Town Square and parking land sold off.'</i></p>	<p>A coordinated and collective approach is aimed at maintaining and improving the Eltham Town centre performance over time. This includes increasing patronage and expenditure, business attraction and investment.</p> <p>Some of the Eltham Chamber of Commerce & Industry recent activities and achievements include: enhancement of the Eltham Town brand; ongoing development of the Eltham Town website; continuation of integrated marketing campaigns, events and competitions including the Eltham Jazz Food & Wine Festival. The Chamber also provides an effective communication, engagement and advocacy role for individual businesses in the centre and for the town as a whole.</p> <p>This is considered to be of benefit both directly and indirectly to all businesses and property owners located within the designated area and the wider community and that the value of properties included in the scheme, their desirability as a letting proposition, and their general image will be enhanced.</p> <p>With regard to the special benefit, it is considered that all the properties used for retail, commercial and professional purposes in the proposed scheme will receive special benefit through increased economic activity.</p> <p>Traders who contribute to the scheme are provided with ongoing opportunities to participate in decision-making on how the Special Rate funds are spent on marketing and promotional activities, through the sub-committees of the Chamber and through surveys regarding their priorities and preferences for marketing activities.</p>

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5	<p>Bernadette J Robinson, Petticoat Junction, Shop 1/ 974 Main Road, Eltham</p> <p>The business provided its lease agreement/ rate notice confirming that they are liable to pay the rate.</p>	<p>Objecting to the proposed renewal.</p> <p><i>'Council has erred in placing reliance on the advice of the Eltham Chamber Committee that there is sufficient support for the renewal from business operators throughout the precinct ... Council should have noted that the ECCI entrusted the survey to gauge the level of support to a person with a fundamental conflict of interest ...</i></p> <p><i>As required by S163 (2D) (3) (ac) Council has not specified in the declaration "the total cost of the performance of the function or the exercise of the power" ...</i></p> <p><i>As in objection above; Council is also in contravention of S163B that requires the special rate to be limited ...'</i></p>	<p><u>Same as submission 4.</u></p> <p>The ECCI is an independent and incorporated entity managed by its elected committee of management with traders and landowners participating in committees work. The Committee members are volunteers and making valuable contribution to the Chamber and the Eltham communities. The relationship between ECCI and Council is governed by the Payment Agreement to ensure the most effective management of Special Rate funds.</p> <p>The Council specified the total cost in the Public Notice: "In performing functions and exercising powers in relation to activities associated with the encouragement of commerce and retail activity in and around the area for which it is proposed the Special Rate will be declared, the Council intends to levy and spend an amount of \$130,000 for the first year of the scheme; raising in total an amount of \$650,000 over the five year period of the scheme."</p> <p>"For the purposes of having determined the total amount of the Special Rate to be levied under the Scheme, Council 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 benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Rate is in a ratio of 1:1 (or 100%)."</p>
6	<p>Gary Brookes, The Common, 26 Commercial Place, Eltham & K. Chandler, Director, Elsho P/L, PO Box 281, Eltham</p> <p>26 Commercial Place and 978/980 Main Road, Eltham</p>	<p>Objecting to the proposed renewal. We reject the scheme on the following grounds:</p> <p><i>'The ECCI has failed to enhance the town brand in all of the years that it has been responsible for it ... ECCI were allowed to be coerced in order to misrepresent the views of the traders ... The current marketing campaigns that are being run are very old style marketing... A new committee has been formed, even though there has been some activity, not once has our operation been approached ...'</i></p>	<p>Traders who contribute to the scheme are provided with ongoing opportunities to participate in decision-making on how the Special Rate funds are spent on marketing and promotional activities, through the sub-committees of the Chamber and through surveys regarding their priorities and preferences for marketing activities.</p> <p>The funds collected through the Special Rate scheme are levied by Council and then used to reimburse the Eltham Chamber of Commerce and Industry for its expenditure on advertising, promotion, management and business development expenses for the Eltham Town centre.</p> <p>Some of the Eltham Chamber of Commerce & Industry recent activities and achievements include: enhancement of the Eltham Town brand; ongoing development of the Eltham Town website; continuation of integrated marketing campaigns, events and competitions including the Eltham Jazz Food & Wine Festival. The Chamber also provides an effective communication, engagement and advocacy role for individual businesses in the centre and for the town as a whole.</p>

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7	<p>Rebecca Jordan-Kiefer, Eltham Midway Jewellers, Shop 3/ 974 Main Road, Eltham</p> <p>The business provided its lease agreement/ rate notice confirming that they are liable to pay the rate.</p>	<p>Objecting to the proposed renewal on the same grounds as submissions 4 & 5.</p>	<p><u>Same as submissions 4 & 5.</u></p>
8	<p>Navin Govil, Frolland Pty Ltd, 970 Main Road, Eltham</p> <p>The business provided its lease agreement/ rate notice confirming that they are liable to pay the rate.</p>	<p>Objecting to the proposed renewal on the same grounds as submissions 5 & 7.</p> <p><i>'As required by S163 (2D) (3) (ac) Council has not specified in the declaration "the total cost of the performance of the function or the exercise of the power ...</i></p> <p><i>Council has contravened S222 (1) by failing to make available any "copies of the proposed declaration of the Special Rate" as required by s163 (1B) (a) & (c)...</i></p> <p><i>This contravention also results in Council's Notice of Intention to declare a Special Rate Scheme for Eltham Town being mistaken in its assertion that such copies would be provided, placing Council in contravention of its S163(1B) obligation to provide a reliable public notice.'</i></p>	<p><u>Same as submissions 5 & 7.</u></p> <p>Following the receipt of a written request from the Eltham Chamber of Commerce and Industry to renew the Special Rate scheme to fund the marketing and promotion of the Eltham Town, Council at its Ordinary meeting on 22 March 2016 resolved to give notice of its intention to declare a Special Rate scheme for that purpose.</p> <p>The Council specified the total cost in the Public Notice: "In performing functions and exercising powers in relation to activities associated with the encouragement of commerce and retail activity in and around the area for which it is proposed the Special Rate will be declared, the Council intends to levy and spend an amount of \$130,000 for the first year of the scheme; raising in total an amount of \$650,000 over the five year period of the scheme."</p> <p>In accordance with the requirements of the <i>Local Government Act 1989</i> formal notification of the proposed Special Rate was undertaken, with a public notice published in the Diamond Valley Leader on 30 March 2016 and also by written notification being sent to the owners and occupiers of properties upon which the Special Rate would be levied.</p> <p>Copies of the proposed declaration of the Special Rate and a detailed plan of the Scheme area (including a list of all properties included in the scheme, with the estimated amounts payable by each property based on the 2014 CIV valuation) were available for inspection during normal office hours at the Council offices in Greensborough for a period of at least 28 days after the date of this notice, being until Monday, 25 April 2016. The Council Report with all attachments is available online at http://www.nillumbik.vic.gov.au/Council/Minutes-and-agendas</p>

No.	Business/ Proprietor	Submission Summary	Response
9	<p>John Wooller, Thompsons Pharmacy, 962 – 964 Main Road, Eltham & Norman Williams, Director, NEC & L Nominees Pty Ltd, PO Box 11, Eltham</p> <p>This business initially signed the Chamber trader’s survey in support of the scheme renewal.</p>	<p>Objecting to the proposed renewal.</p> <p><i>‘... the basis of our objection is that scheme is funded by a disproportionate number of traders and that the promotion of the Town Square benefits the entire community... we also feel that the Jazz festival has such broad benefits to the entire community that it is now beyond the responsibility of a few local businesses to fund this festival.</i></p> <p><i>We are not opposed to special rate scheme in general terms but until the amount of the special rate and the Council contributions has been adequately reviewed we oppose the special rate.’</i></p>	<p>The owner supports the scheme for the 18 Commercial Place property and opposes the renewal for the 962 – 964 Main Road property occupied by the pharmacy.</p> <p>The Eltham Town Special Rate scheme is capped at \$130,000 annually and it is distributed amongst 175 properties in a proportionate way using the property CIV as calculation method.</p> <p>The Special Rates are driven by the CIV. Increases and decreases in the actual dollar amounts payable are dependent upon the proportion of CIV movement.</p> <p>The Eltham Chamber of Commerce & Industry contributes \$25,000 annually from the special rate monies towards the Eltham Jazz, Food & Wine festival. As a major community event, Council provides the balance from other sources.</p>
10	<p>Kevin & Glenda Brent, Brent’s Patisserie, 3 Dudley Street, Eltham</p> <p>The business provided its lease agreement/ rate notice confirming that they are liable to pay the rate.</p>	<p>Objecting to the proposed renewal on the same grounds as submissions 5 & 7.</p> <p>This business initially signed the Chamber trader’s survey in support of the scheme renewal.</p>	<p><u>Same as submissions 5 & 7.</u></p>
11	<p>Stephen & Sarah Woolway, The Nest 40 Commercial Place, Eltham</p> <p>This objection has a petition attached, see summary below.</p>	<p>Objecting to the proposed renewal.</p> <p><i>‘...Our objections to the Special Rates are based, not solely on what we believe to be a failure of this scheme to bring increased customer trade and revenue to the retail/ hospitality/ services businesses of the Special Rates area, but also, by the lack of transparency as to the implementation and results of the survey conducted by the Chamber;</i></p>	<p>The Eltham Town Special Rate scheme is capped at \$130,000 annually and it is distributed amongst 175 properties in a proportionate way using the property CIV as calculation method.</p> <p>The Special Rates are driven by the CIV. Increases and decreases in the actual dollar amounts payable are dependent upon the proportion of CIV movement. Over 100 properties liable to pay the special rate will have marginal movements (increase or decrease) of less than \$50. It is expected that half of the properties will pay less and the other half will pay marginally more. This means that it is possible to have an increase in the CIV but have a reduction in special rates.</p>

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		<p><i>contradictory statements regarding the calculation of the Special Rates from the President of the Chamber and Darko Popovski and yourself to the Traders; the results of a Special Rates survey conducted by Eltham Traders themselves, which seriously calls into question the acquisition and final numbers of the Chamber survey...'</i></p> <p>This business initially signed the Chamber trader's survey in support of the scheme renewal.</p>	<p>The funds collected through the Special Rate scheme are levied by Council and then used to reimburse the Eltham Chamber of Commerce and Industry for its expenditure. Council does not retain any of the Special Rate funds. Council covers the administration and management costs associated with the program from its existing operating budget.</p> <p>The Marketing Officer and the Chamber President together with other committee members visited most of the businesses in February 2016 to gauge the level of support and answer queries regarding the proposal. The initial feedback from this consultation was very positive and received over 110 signed letters in support of the Special Rate scheme renewal. The Committee of Management has an open door policy and presents many opportunities for traders to actively participate.</p> <p>The benefit is a common special benefit rather than individual businesses promotion ... Council 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 benefits and community benefits) that will accrue as special benefits to all of the persons who are liable or required to pay the Special Rate is in ratio of 1:1 (or 100%). This is on the basis that, in the opinion of the Council, all of the services and activities to be provided from the proceeds of the expenditure of the Special Rate are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the scheme that are used, or reasonably capable of being used, for commercial, retail or professional purposes. (Council Report, Intention to Declare 22 March 2016).</p>
12	<p>Rachael O'Connor-Horan, Eira Café, 1 Pryor Street, Eltham</p> <p>This objection has a petition attached, same as above.</p>	<p>Objecting to the proposed renewal.</p> <p><i>'...Our objections to the Special Rates are based on what we believe to be a failure of this scheme to bring increased customer trade and revenue ... and also, by the lack of transparency as to the results of the survey conducted by the Chamber; as well as the results of a Special Rates survey conducted by Eltham Traders themselves, which seriously calls into question the acquisition and final numbers of the Chamber of Commerce survey...'</i></p>	<p><u>Same as submission 11.</u></p>

NOTICE OF INTENTION TO DECLARE A SPECIAL RATE SCHEME FOR ELTHAM TOWN

In accordance with a resolution of the Nillumbik Shire Council (Council) made at its Ordinary meeting held on **22 March 2016**, notice is given that at Council Ordinary meeting to be held on **21 June 2016**, it is the intention of the Council to declare a Special Rate Scheme (*Special Rate*) under Section 163(1) of the *Local Government Act 1989 (Act)* for the purposes of defraying expenses to be incurred by the Council in, administratively only and subject always to the approval, direction and control of the Council, providing funds to the incorporated body known and operating as Eltham Chamber of Commerce and Industry Inc. (*Chamber*) to be used for the purposes of funding a centre coordinator, promotional, advertising, marketing, business development and other incidental expenses to be approved by the Council and agreed to from time to time between the Council and the Chamber, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Eltham Town commercial business centre (*Precinct*).

The Special Rate will be based on geographic criteria, having regard to the location and the capital improved value of those rateable properties within the Precinct that are used, or reasonably capable of being used, for commercial, retail or professional purposes.

The Council considers that each rateable property and each business included in the Scheme area that is required to pay the Special Rate will receive a special benefit because the viability of the Precinct as a commercial, retail and professional area will be enhanced through increased economic activity.

In performing functions and exercising powers in relation to activities associated with the encouragement of commerce and retail activity in and around the area for which it is proposed the Special Rate will be declared, the Council intends to levy and spend an amount of \$130,000 for the first year of the Scheme; raising in total an amount of \$650,000 over the five year period of the Scheme.

The Special Rate is to be declared, and will remain in force for the period commencing on **1 July 2016** and ending on **30 June 2021**.

The following land is specified as the land to be covered by the Special Rate Scheme: Properties located in the core retail and commercial business precinct comprising all properties covered by the current Scheme including Main Road, Dudley Street, Arthur Street, Pryor Street and Luck Street in Eltham.

For the period of the Special Rate Scheme, the Special Rate will be assessed based on the ownership of rateable land used or zoned for commercial, retail or professional purposes located within the Precinct. The Special Rate is calculated by reference to the Capital Improved Value (*CIV*) of each property included in the Scheme, in a similar manner to the calculation of the general rate.

The Special Rate will be levied by the Council sending a notice of levy quarterly to the persons who are liable to pay the Special Rate, which will require that the Special Rate must be paid by four instalments by the due date fixed by Council in the notice.

Council will consider cases of financial and other hardship and may reconsider other payment options for the Special Rate. There will be no incentives given for payment of the Special Rate before the due dates for payment.

For the purposes of having determined the total amount of the Special Rate to be levied under the Scheme, Council 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 benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Rate is in a ratio of 1:1 (or 100%). This is on the basis that, in the opinion of the Council, all of the services and activities to be provided from the proceeds of

the expenditure of the Special Rate are marketing, promotion and advertising related and will accordingly only benefit those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.

Copies of the proposed declaration of the Special Rate and a detailed plan of the Scheme area (including a list of all properties included in the Scheme, with the estimated amounts payable by each property based on the 2014 CIV valuation) are available for inspection during normal office hours at the Council offices in Greensborough for a period of at least 28 days after the date of the publication of this notice, being until Monday, **25 April 2016**.

Any person may make a written submission to the Council under sections 163A and 223 of the Act.

In addition, any person who will be required to pay the Special Rate to be imposed by the proposed declaration, whether an owner or an occupier of a property included in the Scheme, has a right to object to the proposed declaration and may also make a written objection to the Council under section 163B of the Act. An occupier is entitled to exercise the right of objection if they submit documentary evidence with the objection which shows that it is a condition of the lease under which the person is an occupier that the occupier is to pay the Special Rate.

Written submissions to be submitted to the Council under section 223 of the Act and/or written objections to be lodged with the Council under section 163B of the Act must be received by Council by 5PM on Friday, **29 April 2016**. Submissions and/or objections must be in writing and addressed and sent by mail to the Chief Executive Officer, Nillumbik Shire Council, PO Box 476, Greensborough 3088.

Any person who has made a written submission under section 223 of the Act and has requested to be heard in support of their written submission is entitled to appear in person or to be represented by a person specified in the submission before a Committee appointed by the Council to hear submissions under section 223 of the Act, meeting to be held on **7 June 2016**, time and place of which will be advised in writing.

Any person making a written submission under section 223 of the Act is advised that the Council is no longer required to make available for public inspection submissions received in accordance with section 223 of the Act. Accordingly, all submissions and personal information in submissions will be handled as authorised or required by law, including under the *Privacy and Data Protection Act 2014*.

Council will consider any written submissions and take into account any objections in accordance with sections 163A, 163B and 223 of the Act.

Any person requiring further information concerning the proposed declaration of Special Rate should in the first instance contact Council's Strategic and Economic Planning Unit on 9433 3111 or email darko.popovski@nillumbik.vic.gov.au .

STUART BURDACK

CHIEF EXECUTIVE OFFICER

NILLUMBIK SHIRE COUNCIL