

## Attachment 1

### Proposed Declaration for renewal of the Special Rate for Diamond Creek Shopping Precinct

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#### That Council:

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 a Special Rate for Diamond Creek Shopping Precinct under section 163(1) of the Act for the purpose of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Diamond Creek Traders Association, which funds, subject always to the approval, direction and control of Council, are to be used for the purpose of funding a part-time precinct marketing coordinator, promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and the Association, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Diamond Creek Shopping Precinct.
2. Gives notice to all owners and occupiers of properties included in the scheme and all persons who have lodged a submission and/ or an objection in writing of the decision of Council to declare and levy the Special Rate commencing on 1 April 2018, and the reasons for the decision.
3. Resolves that for the purposes of paragraph 2, the reasons for the decision of Council to declare the Special Rate are that:
  - a. There is sufficient support for the Special Rate from the property owners and occupiers.
  - b. Council considers that it is acting in accordance with the functions and powers conferred on it under the *Local Government Act 1989*, having regard to its role, purposes and objectives under the Act, particularly in relation to the encouragement of commerce, retail activity and employment opportunities in and around the scheme area.
  - c. 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.

- d. 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.
4. The criteria which form the basis of the declaration of the Special Rate are the ownership and the capital improved value of rateable land used, or reasonably capable of being used, for commercial, retail or professional purposes, which rateable land is situated within the geographical area in which the properties described in paragraph 8 of this declaration are included.
  5. In declaring the Special Rate, Council is performing functions and exercising powers in relation to the peace, order and good government of the municipal district of the Nillumbik Shire, in particular the encouragement of commerce, retail activity and employment opportunities within the area for which the Special Rate is declared.
  6. The total cost of the performance of the function and the exercise of the power by Council (in relation to activities associated with the encouragement of commerce, retail activity and employment opportunities in the area for which the Special Rate is declared), and also the total amount of the Special Rate to be levied by Council is referable to an amount of \$30,000 in the first year and \$120,000 annually thereafter, raising in total an amount of \$510,000.
  7. The period for which the Special Rate is declared and will remain in force is a period of five (5) years commencing on 1 April 2018 and ending on 30 June 2022.
  8. The area for which the Special Rate is declared is all of the land referred to as the Diamond Creek Shopping Precinct, as identified and shown on the plan set out in the attachment forming a part of this declaration.
  9. The Special Rate will be declared and assessed in accordance with the amounts set out alongside each property in the attachment forming a part of this declaration, such amounts having respectively been assessed by multiplying the Capital Improved Value (CIV) of each property which are liable to pay the Special Rate.
  10. The Special Rate will be levied by sending a notice of levy in the prescribed form to the person who is liable to pay the Special Rate, which will require that the Special Rate must be paid by four instalments, to be paid by the dates which are fixed by Council in the notice.
  11. Council considers that there will be a special benefit to the persons required to pay the Special Rate because there will be a benefit to those persons that is over and above, or greater than, the benefit that is available to persons who are not subject to the Special Rate, and directly and indirectly as a result of the expenditure of the Special Rate

**the viability of the Diamond Creek Shopping Precinct as a business, commercial and retail area, and the value and the use, occupation and enjoyment of the properties and the businesses included in the Special Rate scheme area will be maintained or enhanced through increased economic activity.**

- 12. For the purposes of having determined the total amount of the Special Rate 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 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 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.**
- 13. The Diamond Creek Traders Association be authorised to administer the proceeds of the Special Rate on the express condition that the Association enters into funding agreement with Council for the period of the Special Rate.**
- 14. Council's Chief Executive Officer, for the purposes of paragraph 13 of this resolution, be authorised to sign the payment agreement between Council and the 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 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 *Local Government Act 1989* to do so, and such funding agreement to be submitted to Council for sealing.**
- 15. Council encourages the Diamond Creek Traders Association to continue improving the marketing plan that responds to the specific needs of the businesses in various areas across the precinct.**