



City of  
**Moonee Valley**

---

# **Special Meeting of Council**

**Tuesday, 20 May 2014 at 7.00pm**

**Agenda**

---

# Special Meeting of Council

Tuesday, 20 May 2014 at 7.00pm  
to be held at Moonee Valley Civic Centre

---

**TO:**

**Members:** Cr Jan Chantry Mayor  
Cr Nicole Marshall  
Cr Shirley Cornish  
Cr Jim Cusack  
Cr Paul Giuliano  
Cr Cam Nation  
Cr Narelle Sharpe  
Cr John Sipek  
Cr Andrea Surace

**Officers:** Mr Neville Smith Chief Executive  
Mr Bryan Lancaster Director City Works & Development  
Ms Angela Walter Acting Director Corporate Services  
Mr Anthony Smith Acting Executive Manager Citizen Services & Information Management  
Mr Tony Ball Executive Manager Community Services  
Mr Scott Widdicombe Executive Manager Environment & Lifestyle  
Ms Yvonne Hansen Manager Governance & Local Laws

**Business**

1. Opening
2. Apologies
3. Declarations of Conflict of Interest

**4. Reports**

- 4.1 Council's Submission to the Draft Planning Policy Framework ..... 4
- 4.2 Flemington and Union Road Special Rate Renewal – Intention to declare..... 10

**5. Close Of Meeting**

**NEVILLE SMITH**  
Chief Executive

## COUNCIL REPORTS

### 4.1 Council's Submission to the Draft Planning Policy Framework

**File No:** FOL/09/1489  
**Author:** Senior Strategic Planning Officer  
**Directorate:** City Works & Development  
**Ward:** Municipal

---

#### Purpose

The purpose of this report is to update Council on the review of the State Planning Policy Framework and for Council to endorse the draft submission prepared in response to the draft Planning Policy Framework, released by the Victorian Government for comment.

#### Executive Summary

- The Minister for Planning appointed an Advisory Committee in July 2013 to report on the review of the State Planning Policy Framework (SPPF).
- The SPPF is a key part of the Victorian planning system and the Victoria Planning Provisions (VPP). It sets the key policy direction for state planning issues.
- A review of the SPPF is required to ensure all state policy matters align and integrate with the key strategic directions and strategic maps that have been identified in the newly developed Plan Melbourne and eight regional growth plans.
- The Advisory Committee has now prepared a document called the draft Planning Policy Framework (PPF) which was released for comment on 14 March 2014. Refer **Appendix A** - (separately circulated).
- The draft PPF updates the existing State Planning Policy Framework, incorporates regional policy and enables local policy to be better aligned with state and regional policy.
- The Committee is seeking feedback on the form, content and workability of the draft PPF prior to reporting to the Minister for Planning to make recommendations on the way forward.
- Submissions are due Friday 23 May 2014.
- A draft submission has been prepared which focuses on the key questions the Committee is seeking views on. Refer **Appendix B** - (separately circulated).

## Recommendation

That Council:

1. Endorse the submission to the draft Planning Policy Framework as detailed in **Appendix B** - (separately circulated).
2. Forward the submission to the Advisory Committee by 23 May 2014.

## Background

The Minister for Planning established an Advisory Committee to review the State Planning Policy Framework (SPPF) in July 2013.

The SPPF is a key part of the Victorian planning system and the Victoria Planning Provisions (VPP). It sets the key policy direction for state planning issues.

The Terms of Reference for the SPPF Review Advisory Committee require the Committee to review the present SPPF “*to ensure all state policy matters align with the key strategic directions and strategic maps that have been identified in the newly developed Metropolitan Planning Strategy and eight Regional Growth Plans*”.

The review is also intended to ensure that the SPPF supports recent major reforms to the state's commercial, industrial, residential and rural zones, assisting councils to deliver certainty in achieving their strategic objectives.

In October 2013, the terms of reference of the Committee were expanded to review ways in which Local Planning Policy Frameworks (LPPF) could be better aligned with the SPPF in the form of a revised structure for the Municipal Strategic Statement (MSS).

The Advisory Committee has prepared a document called the draft Planning Policy Framework (PPF) **Appendix A** – (separately circulated), which shows how a revised format for the SPPF and LPPF could work. This document was released on 14 March 2014.

The draft Planning Policy Framework has been drafted to:

- Drive a fundamental change in the way planners make decisions to a facilitation approach rather than a regulation approach;
- Be more user friendly by being easier to read, understand and navigate;
- Include more graphics to show spatial policies effectively, and
- Link state, regional and local policy to better align policy matters ensuring local policy retains its important role.

Work by the Committee has edited the words and expressions of policy but have stated that everything included in the PPF is approved policy – approved government policy or contained in the council adopted regional growth plans. An exception to this is the inclusion of initiatives and actions contained within the draft Plan Melbourne.

The new format PPF had an order of State, then regional, then local policy one after the other. The sequence places all relevant policy in the one section where no item can be missed and to define the interrelationship. The Committee has stated that no one piece of policy will have more prominence than another.

Under the revised structure proposed by the Committee there will be no need for an MSS or LPPF. Local policy will be integrated into the PPF under the “Local policy” section.

The Committee has prepared the PPF so that local policy can be adapted to fit the new structure. Local government will be given the opportunity to do its own review and amendments to policy to adapt to the new format.

Feedback is sought on the draft PPF. In particular, the Committee is seeking views on the following key questions:

- Are there errors or omissions in the draft PPF?
- What change is needed to accommodate local policy in the proposed structure?
- What further changes could improve navigation?
- Are there other specific regions or thematic areas (such as coastal areas) that should be identified for separate policy?
- What maps would you want to include and can you see a logical place for them?

It should be noted that all of the above questions seek feedback in relation to the structure of the draft PPF rather than the content.

Submissions to the draft PPF are due Friday 23 May 2014. Written comments will help the Committee prepare a report to the Minister for Planning. After that, the State Government will consider the Committee’s recommendations before determining a response.

## **Discussion**

### **Council’s submission**

Council officers have prepared a draft submission in response to the release of the draft PPF **Appendix B** – (separately circulated). The submission focuses on the key questions the Committee is seeking views on. It also raises other relevant matters that should be addressed within the review of the SPPF. The most critical areas are discussed below.

Council officers support the opportunities identified by the Committee to make the SPPF easier to navigate. In particular, Council officers welcome the move to order State, regional and local policy one after the other. This will not only ensure that the document is more logical than the current format, but also reinforces that no one policy will assume prominence over another but rather, be reflective of a logical sequence. The removal of redundant (outdated) policy is also considered a positive change.

Notwithstanding this support for format changes, Council officers have concerns regarding the inclusion of initiatives and actions contained within the draft Plan Melbourne given this is not an adopted policy.

It is stated in the “Frequently asked questions about the draft Planning Policy Framework” document refer **Appendix C** – (separately circulated) that the first principle used by the Committee to determine what goes into the PPF was that the policy under consideration must be adopted policy.

It states that “*interim policy, ideas intended to be policy one day or matters being thought about as proposed policy did not pass the first hurdle.*” This is completely at odds with the Committee’s inclusion of Plan Melbourne policy statements.

Council’s submission to Plan Melbourne highlighted that several important issues facing Melbourne as a whole have either been inadequately addressed or remain absent from the strategy. The issues previously raised in response to Plan Melbourne that are most pertinent to the review of the SPPF are summarised as follows:

- Opposition to the identification of two urban renewal areas within Moonee Valley’s borders (Essendon Station and Flemington-Newmarket).
- The need for mechanisms to facilitate affordable and social housing.
- The need for clearer policies to direct housing growth.
- Opposition to the construction of Stage One (tunnel) of the East West Link.
- The lack of adequate consideration of climate change and the need for a more sustainable built environment.
- The potential for Moonee Valley to form part of the northern subregion rather than the western subregion.

With regard to the key questions the Committee is seeking views on, Council offers the following comments:

1. *Are there errors or omissions in the draft PPF?*

Based on a review of the draft PPF, no critical errors or omissions were identified. This does not relate to the policy content but only to the format, structure and layout of the proposed PPF. Any substantial deviation from the exhibited draft may result in a different view from Council.

2. *What change is needed to accommodate local policy in the proposed structure?*

Council recently exhibited Amendment C134 which seeks to introduce a revised MSS into the Moonee Valley Planning Scheme.

Analysis undertaken by Council officers has revealed that while Council’s revised MSS could be accommodated in the new format, the proposed changes represent a need for a significant restructuring of the MSS and LPPF of the Moonee Valley Planning Scheme. Furthermore, with the introduction of new material to the PPF, there may be duplication in Council’s MSS and local policies which would require a rewrite and simplification in future.

In addition, it is noted that there is no clear guidance as to where Council’s vision for the municipality would sit in the proposed PPF nor does there appear to be provision for Council to document its Further Strategic Work. Clarification on both these points is therefore sought from the Committee.

It is important to note that the Planning and Environment Act 1987 sets out the requirement for a planning scheme to include an MSS and stipulates what it should contain. The proposed structure of the PPF will therefore necessitate a change to the Act.

Council would like to see a commitment made by the State Government to assist local governments in undertaking the consequential work of translating the MSS and LPPF into the new structure.

3. *What further changes could improve navigation?*

Council does not consider it appropriate for Gaming and Brothels to be located under the heading of Community Development and requests they be given separate sections in the PPF.

4. *Are there other specific regions or thematic areas (such as coastal areas) that should be identified for separate policy?*

Moonee Valley believes there is a need for a separate policy for the Maribyrnong River which transcends several municipal boundaries in Melbourne's west. A separate policy would ensure a coordinated and consistent approach to managing land alongside the river.

5. *What maps would you want to include and can you see a logical place for them?*

Once Plan Melbourne is finalised and adopted by the State Government, there may be merit in including maps which identify the Metropolitan Melbourne Elements currently summarised in Table 1 of the PPF (Clause 03.06 – Planning for Cities).

## **Consultation**

Council's submission in response to the draft PPF has been prepared in consultation with all relevant internal departments.

As the majority of the submission relates to the structure of the planning scheme, and any points made in relation to content are consistent with Council's submission to Plan Melbourne, there is no need to consult with the community.

## **Implications**

### **1. Legislative**

The State Government proposal to combine the Local and State Planning Policy Framework of all Victorian Planning Scheme represents a need for a significant restructuring of the MSS and LPPF of the Moonee Valley Planning Scheme.

It is understood that Council will be given the opportunity to do its own review and amendments to policy to adapt to the new format in due course.

There are no implications in relation to the Human Rights Charter.

### **2. Council Plan / Policy**

Council's submission to the draft PPF aligns with many of the Council Plan strategic objectives, including:

- Theme 2: Green, clean and beautiful
- Theme 3: Sustainable living
- Theme 5: Excellence in governance



In particular Theme 3: Sustainable Living includes Strategic Objective 1 – *Ensure there is a clear direction for growth and proactive management of development in the city.*

### **3. Financial**

There are no specific financial implications associated with Council's submission to the draft PPF.

### **4. Environmental**

The draft PPF provides opportunities to align Council's strategies to environmental factors such as ecological sustainability and climate change in the area of land use and development.

### **Conclusion**

The Minister for Planning has established an Advisory Committee to review the SPPF. The Advisory Committee has prepared a document called the draft Planning Policy Framework (PPF), which shows how a revised format for the SPPF and LPPF could work.

It is important for Council to review the draft PPF, and provide feedback where relevant.

The proposed submission at **Appendix B** - (separately circulated) is a result of a review of the proposed format changes and policy inclusions presented within the draft document. It outlines where changes are supported or where there are significant issues that should be addressed.

It is recommended that Council endorse this submission and submit it to the Advisory Committee by 23 May 2014.

**4.2 Flemington and Union Road Special Rate Renewal – Intention to declare**

**File No:** FOL/13/496 & FOL/13/495  
**Author:** Manager Economic Development & City Sustainability  
**Directorate:** Corporate Services  
**Ward:** Municipal

---

**Purpose**

To seek endorsement by Council to commence the statutory process to renew the special rate schemes for Union Road and Flemington Business Districts.

**Executive Summary**

- The proposed Special Rate and Charge calculation for Union Road and Flemington business districts is a combination of 20 per cent fixed Special Charge and 80 per cent special rate based on Capital Improved Value (CIV).
- Each business district will raise \$50,000 in the first year and increase in \$2,500 increments for a four year period from 1 July 2014 to 30 June 2018. Each scheme will in total collect \$215,000 over the four year period.
- The special rate scheme will apply to 113 properties in the Flemington Business District and 162 properties in Union Road.
- This report proposes that Council give notice of its intention to declare a Special Rate and Charge for the Flemington and Union Road Business Districts. It also seeks submissions and objections from business and property owners liable to pay the Special Rate and Charge. Council will receive submissions from affected parties up to the close of business on Friday 27 June 2014.

**Recommendation**

That Council:

1. Commences the statutory process under the *Local Government Act 1989* (the Act) to re-introduce by way of renewal a Special Rate and Charge to and for the properties within the defined Flemington and Union Road Business Districts to raise an amount of \$50,000 in the first year and increase in \$2,500 increments for a four year period from 1 July 2014 to 30 June 2018.

2. In accordance with sections 163(1A) and 163B(3) of the Act, publishes public notices in the Weekly Review Moonee Valley and the Moonee Valley Leader of the intention of Council to declare at its ordinary meeting to be held of 22 July 2014, in accordance with the proposed declaration of Special Rate and Charge in the form of the attachment to this resolution **Appendix A** - Flemington Business District – (separately circulated) and **Appendix B** – Union Road Business District – (separately circulated), such Special Rate and Charge to be for the purpose of defraying expense to be incurred by Council to be used for the purposes of the appointment of a part-time Shopping Centre Coordinator, promotional, advertising, marketing, business development and other incidental expense, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Flemington and Union Road Business Districts.
3. In accordance with section 163(1C) of the Act, issue separate letters enclosing a copy of the public notices be sent to the owners and the occupiers of the properties referred to and set out in the schedule of properties forming a part of the Proposed Declaration of Special Rate and Charge, advising of the intention of Council to declare the Special Rate and Charge at its ordinary meeting to be held on 22 July 2014, the amount for which the property owner or the occupier (being a person who as a condition of a lease under which the person who occupies the property is required to pay the Special Rate and Charge) will be liable, the basis of the calculation and distribution of the Special Rate and Charge and notifying such persons that submission and/or objections in writing in relation to the Proposed Declaration of Special Rate and Charge will be considered and/or taken into account by Council in accordance with sections 163A, 163B and 223 of the Act.
4. Advises the Flemington and Union Road Traders Association of the matters specified in paragraphs 1, 2 and 3 of this resolution.
5. Appoints and authorises Councillors to be the members of the committee that is established by Council under section 223(1) (b) (i) of the Act, to hear any persons who in their written submissions under section 223 of the Act have requested that they be heard in support of their submissions.
6. Authorises the Council's Chief Executive or his nominated representative:
  - a) To carry out any and all other administrative procedures necessary to enable Council to carry out its functions under section 163A and section 163(1A), (1B) and (1C) and sections 163B and 223 of the Act; and
  - b) To prepare a funding agreement between Council and appropriate trader association to formalise the administrative operations of the Special Rate and Charge, to ensure that at all times, and as a precondition to any payment of funds, Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Special Rate and Charge in accordance with its obligations under the *Local Government Act 1989* to do so.

## **Background**

Moonee Valley has four shopping precincts across the municipality where a Special Rate and/or Charge applies. These precincts are; Union Road Ascot Vale, Flemington Business District, Moonee Ponds Business District and Niddrie Business District.

The success of local shopping centres such as these is extremely important to the local community. A vibrant, active and successful shopping centre can provide benefits including local employment, diversity of businesses, meeting places and a space for the community to socialise and shop.

As stated in the declarations, funds are collected for the purpose of marketing and promoting the respective shopping precincts. Special Rate and Charge schemes have been operating in these precincts for over 10 years and it is considered that the services provided from the proceeds of the Special Rate and Charge provide special benefit to the rated businesses and properties.

## **Discussion**

The Union Road and Flemington business district Special Rate and Charge will not apply to any properties that are not rateable, or are not used or not presently available to be or reasonably capable of being used for commercial, retail or professional purposes. It is otherwise considered that the services to be provided from the proceeds of the Special Rate and Charge, all being marketing-related, will only benefit the commercial and business properties and land in the Special Rate and Charge Scheme areas.

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

On this basis, the whole of the proposed Special Rate and Charge will be levied against the retail, commercial and professional business properties that are located in the Scheme area.

It is proposed that each scheme will collect \$50,000 in the first year of the Special Rate and Charge, with an increase of \$2,500 each year for the duration of the scheme. Over the four year period of the scheme \$215,000 will be collected in each business precinct.

Year 1 - \$50,000

Year 2 - \$52,500

Year 3 - \$55,000

Year 4 - \$57,500

To provide consistency between the Special Rate and Charge schemes that apply in Moonee Valley, it is proposed to declare a 20 per cent fixed special charge and 80 per cent special rate based on Capital Improved Value (CIV).

The 20 per cent fixed component represents a fair and equitable distribution of the Special Rate and Charge ensuring all properties contribute to the core marketing of the precinct. The 80 per cent component will recognise that most of the benefit from the Special Rate and Charge will be distributed in accordance with CIV.

## Consultation

In 2013, a survey was completed of all traders seeking feedback on the proposed renewal of the Special Rate and Charge in Union Road and Flemington. The support in Union Road was overwhelming and recognition of the strong Trader Association. Flemington was more indifferent with waning support for any renewal. A targeted campaign on the benefits of the Trader Association and the benefits of a Special Rate and Charge resulted in a rejuvenation of the committee. A new President was elected and a secondary survey of businesses generated more support to renew the Special Rate and Charge.

Property and/or business owners who are affected by the Special Rate and Charge Scheme who wish to lodge an objection or make a submission on the scheme, must have their written submission lodged with Council by 5pm on Wednesday 25 June, 2014. Council will consider written or verbal submission/s at a Section 223 Committee scheduled for Tuesday 1 July 2014.

## Implications

### 1. Legislative

Section 163 of the *Local Government Act 1989* states that Council must determine a number of matters when considering a new Special Rate or Charge:

- a) The purpose of the Special Rate or Charge or a combination of both.

In the case the defraying of any expenses relating to a specific function (marketing and promotion of Flemington and Union Road Business Districts). This must be of special benefit to the persons required to pay the special rate or special charge.

- b) The total amount of the Special Rate and/or Charge to be levied.

The total cost of implementing this rate would include:

- The annual amount \$50,000 in the first year of the scheme rising each subsequent year by \$2,500, for the remainder of the scheme for each business precinct.
- Council's own administrative costs in relation to the scheme including the renewal process and on-going administration. The practice in previous schemes is for Council to not recover its administrative costs from liable properties, and to only levy those costs incurred by the Association. It is proposed that this practice continue for the proposed schemes. It needs to be emphasised that Council's contribution (around \$20,000 for the renewal process and \$20,000 annually for administration) in providing its own resources towards the benefit of the Flemington and Union Road Business Districts (which could otherwise be recouped from benefiting properties) is not inconsiderable and is highlighted for the record.

The Act provides that Council must calculate the above amount in accordance with the following formula:

$$R \times C = S$$

**R** is the total 'benefit ratio' which is the percentage of the total cost that Council determines is able to be levied. It takes into account whether there are properties Council believes will derive a 'special benefit' and are to be levied, and others which also receive such a benefit but which aren't to be levied (such as non-commercial community facilities).

Council must also determine if there is a clear, direct and tangible 'community benefit' provided by the scheme that cannot be rated to the shops. This must be attributed to, and paid for, by Council.

**C** is the total cost of the scheme. **S** is the maximum amount that can be levied.

With regard to the 'benefit ratio', it is considered that all the properties shown on the map and detailed in the list annexed to the attached proposed declaration, will receive a special benefit through increased economic activity. There are no Rateable properties identified within this area which should not be levied the Rate. Also, it is considered that there are no separate 'community benefits' that can be measured which might accrue from the existence of the scheme. Any benefits to people visiting the businesses in the Centre will accrue to the businesses themselves.

Therefore, the total maximum amount that can be levied on liable property owners would be 100 per cent of the total cost of the scheme.

Council needs to specify the methodology it will use in determining how the payment of the Rate is to be apportioned amongst the benefiting properties. In this instance, it is proposed that all properties will pay a combination of 20 per cent fixed Special Charge and 80 per cent special rate based on Capital Improved Value (CIV), in order to raise the total amount to be levied for each year.

## **2. Council Plan / Policy**

Theme 4: Vibrant and diverse

Strategic objective 1: Support economic growth and development in the municipality.

The renewal of Special Rate and Charge schemes in Union Road and Flemington are an important tool to support traders and achieve economic growth in these valuable shopping precincts.

## **3. Financial**

The renewal of the Special Rate and Charge schemes is accounted for in the operational budget.

#### **4. Environmental**

The renewal of the Special Rate and Charge schemes will have no negative impact on the environment. Growing local precincts supports local residents to shop locally which in turn can reduce the environmental impact caused through travel.

#### **Conclusion**

The renewal for the Union Road and Flemington Special Rate and Charge has the support and endorsement of the respective traders associations and the process invites public comment and the hearing of submissions by Council.

It is considered that all of the commercial, retail and professional properties in the Flemington and Union Road Business Districts will derive a special benefit from the expenditure of Special Rate and Charge funds and the viability of business districts as a commercial and retail centre will be further enhanced.