



12.1 FOOTPATH TRADING FEE POLICY - OUTCOMES OF CONSULTATION AND CONSIDERATION FOR ADOPTION

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1. PURPOSE

For Council to consider adoption of the Footpath Trading Fee policy which has been updated to respond to feedback received during a five-week community engagement period.

2. EXECUTIVE SUMMARY

- 2.1 At its Ordinary Meeting of Council on 20 September 2018, Council resolved to conduct community consultation on the proposed changes to the Footpath Trading Fee policy intended to improve equity, transparency and support the vibrancy created by outdoor dining activity. The proposed changes included, to:
- a) Reconfigure the four-tier outdoor dining fee structure introduced in 2003, to 22 tailored tiers, to respond to the growing disparity between fees charged and the value of retail rents across the municipality.
 - b) Reduce the current outdoor dining rates charged to occupy public land by 5%, from 25% to 20% (and from 35% to 30% where glass screens are used), of average retail rents.
 - c) Discounting fees by 50% for the first year for new businesses at properties where outdoor dining has not previously occurred.
 - d) Support existing traders affected by major construction activity with discounts relative to the length of inconvenience and impact.
- 2.2 Consultation commenced on 18 October 2018. Four hundred and twenty current outdoor dining permit-holders were sent correspondence advising of the proposed fee changes and how to provide feedback on the proposed changes, including online on Council's Have Your Say website, by submission or by meeting with Council officers. Officers met with one Albert Park trader who requested a meeting.
- 2.3 Letters to the 38 traders in the proposed Acland Street Primary and Secondary areas, with the proposed largest fee increases, included an explanation of the proposed yearly increments and an invitation to meet with Council officers to explain the changes.
- 2.4 Officers held meetings with representatives of the Acland Street, Fitzroy Street and Port Melbourne business associations to inform them of the changes and encourage feedback during the consultation period.
- 2.5 At the end of the consultation period, 88 traders completed the Have Your Say survey and one submission was received from the Fitzroy Street Business Association, Attachment 2. The responses to this survey have been analysed by independent consultants OurSay, with these results provided in the Engagement Summary Report, Attachment 4. A late submission was received from the Acland Street Village Business Association, Attachment 3. A summary of the feedback includes the following:



- 2.5.1 A majority of respondents (94.3%) agreed that outdoor dining adds to the vibrancy of the City of Port Phillip and residents support the new fee structure as a way of ensuring local businesses can continue to afford outdoor dining areas.
- 2.5.2 Most survey respondents (72.1%) understand why the new fee structure has been proposed.
- 2.5.3 Approximately one third of respondents (34.5%) stated they 'agree' or 'strongly agree' that the proposed changes increased equity because fee reductions are good for the local economy and good for traders.
- 2.5.4 More than a third of respondents (37.5%) either agree or strongly agree that the changes would increase transparency. Traders and stakeholders would like access to the formula and data underpinning the proposed fee structure to enhance transparency.
- 2.5.5 A majority of respondents were not aware of interest free part payment plans or the option to have 'high and low' season furniture quantities, which warrants further explanation and communication to traders.
- 2.5.6 Traders would also like to better understand what Council is doing to support local business and responding to increased vacancy rates. There was also concerns about the language used to explain the method of calculating outdoor dining fees and a desire to know how Council spends this income.
- 2.5.7 The Acland Street Village Business Association (ASVBA) submission raised concerns about a down-turn in business since the Acland Street Upgrade, the loss and cost of parking, the challenges of homelessness, safety and negative publicity for the area. There was also disagreement with retail rent data being the basis for calculating outdoor dining fees, with Acland Street attracting the highest retail rents in the City of Port Phillip.
- 2.6 In response to feedback received, Council officers recommend implementing the revised Footpath Trading Fee policy with the 22-tiered precinct based fee structure charging a rate of 20% of average retail rents (a rate of 30% where the business also has glass screens) and offering the following incentives to further support businesses:
- 2.6.1 Introducing a new 'Revitalisation' rate equivalent to the 'Tertiary rate', (lowest rate) for businesses operating in an area where there is:
- a) a reduction in the average retail rents, informed by the valuation data commissioned by Council annually, and
 - b) a 20% or greater vacancy rate of ground floor commercial tenancies.
- The new 'Revitalisation' rate would be applied to businesses in 'Fitzroy Street Primary' area in 2019/20, as this precinct meets both the above tests.
- 2.6.2 Discount outdoor dining fees by 50% for the first year, for any business where outdoor dining has not previously occurred, or for an existing business which has not provided outdoor dining for two years. In 'Revitalisation' rated areas the outdoor dining fees would be discounted by 100% for the same period.



- 2.6.3 Reducing the annual administrative renewal fee for all footpath trading permits from \$120 to \$70 commencing 2019/20 financial year, to encourage existing traders to renew their permits.
 - 2.6.4 Removing the \$113.55 planter box fee from 2019/20 to incentivise street greening in conjunction with outdoor dining opportunities in response to feedback (provided by the Fitzroy Street Trader Association).
 - 2.6.5 Providing discounts to outdoor dining fees in locations affected by major building works including streetscape upgrades, with discounts based on the duration of the works and with the discounts applied on a case-by-case basis.
 - 2.6.6 Supports businesses in the 'Acland Street Primary' and 'Acland Street Secondary' areas, by introducing the new precinct based fee structure for outdoor dining incrementally over two years, 2019/20 and 2020/21 financial years.
 - 2.6.7 Advertise the changes to the Footpath Trading Fee policy on Council's website and notifies business associations and current outdoor dining permit-holders as part of the footpath trading renewal process for the 2019/20 financial year.
 - 2.6.8 Notes any future changes to footpath trading fees within designated placemaking precincts endorsed by Council will need to align with the objectives of the placemaking program.
- 2.7 In response to the feedback received during the consultation period, Council Officers will improve the provision of information that explains the method of calculating outdoor dining fees, how revenue received from the fees is used and the financial support available to traders including part-payment plans.

3. RECOMMENDATION

That Council:

- 3.1 Thanks the community for the feedback provided during the consultation on the draft Footpath Trading Fee Policy.
- 3.2 Endorses the updated Footpath Trading Fee Policy commencing 2019/20 financial year, which introduces a 22-tier precinct based fee structure for outdoor dining fees, based on charging a rate of 20% of average retail rents for businesses without glass screens and 30% for those with glass screens.
- 3.3 Notes that from 2019/20 financial year the valuation data obtained on retail rents and used to adjust the rates charged for outdoor dining will be available annually.
- 3.4 Introduces a new 'Revitalisation' rate equivalent to the 'Tertiary' rate for outdoor dining for any businesses located within one of the 22 precincts where there is:
 - A reduction in the average retail rent of businesses, informed by valuation data commissioned by Council annually, and
 - A 20% or greater vacancy rate of ground floor commercial tenancies.
- 3.5 Endorses the following outdoor dining incentives to support businesses and encourage vibrancy, commencing 2019/20 financial year:



- a) Discount outdoor dining fees by 50% for the first year, for any business where outdoor dining has not previously occurred, or for an existing business which has not provided outdoor dining for two years.
 - b) Discount outdoor dining fees by 100% for the first year in 'Revitalisation' rated areas, for any business where outdoor dining has not previously occurred, or for an existing business which has not provided outdoor dining for two years.
 - c) Reduce the annual administrative renewal fee for all footpath trading permits to \$70.00 for the 2019/20 financial year.
 - d) Remove the \$113.55 planter box permit fee from the 2019/20 proposed Fees & Charges budget.
 - e) Provide discounts to footpath trading fees in locations affected by major building works including streetscape upgrades, with discounts based on the duration of the works and with the discounts applied on a case-by-case basis.
- 3.6 Supports businesses in the 'Acland Street Primary' and 'Acland Street Secondary' areas, by introducing the new precinct based fee structure for outdoor dining incrementally over two years, 2019/20 and 2020/21 financial years.
- 3.7 Advertises the changes to the Footpath Trading Fee policy on Council's website and notifies business associations and current outdoor dining permit-holders as part of the footpath trading renewal process for the 2019/20 financial year.
- 3.8 Notes any future changes to footpath trading fees within designated placemaking precincts endorsed by Council will need to align with the objectives of the placemaking program.
- 3.9 Notes implementation of the Footpath Trading Fee policy will result in \$97,000 (estimated) reduced income in Council's 2019/20 budget.

4. KEY POINTS/ISSUES

4.1 Council at the Ordinary Meeting of 20 September 2018 endorsed:

- 4.1.1 Consultation to be conducted with traders with outdoor dining permits and trader associations on Option 3 (recommended option), which proposes the introduction of a 22-tier precinct-based fee structure, charging a rate of 20% of average retail rents and a rate of 30% for businesses that also have glass screens.
- 4.1.2 Outdoor dining incentives to support businesses and encourage vibrancy including:
 - a) Discounting fees by 50% for the first year for new businesses at properties where outdoor dining has not previously occurred.
 - b) Providing discounts to outdoor dining permit holders affected by major building works including streetscape upgrades, with discounts based on the duration of the works and with the discounts applied on a case-by-case basis.
- 4.2 This report considers community feedback on the draft Footpath Trading Fee policy including the rates charged for outdoor dining furniture for approximately 420 businesses.



- 4.3 The current fee methodology for outdoor dining furniture was adopted in 2003 and applies four tiers of fees, (Acland Street, Fitzroy Street, Standard and Discounted). Outdoor dining charges for tables and chairs are currently based on charging 25% of average annual 'internal square metre' rate of the four-tier locations, and an additional 10% is applied (charging 35%) where glass screens are used. Fees are calculated per unit of furniture, (chairs and tables) rather than by the area occupied and adjusted every two years using the latest valuation data on retail rents available.
- 4.4 Since 2003 there has been significant growth in outdoor dining activity on the fringes of the precinct. The highest percentage (50%) of this activity is occurring in the 'Discounted' tier areas, and 35% in the 'Standard' tier areas. This indicates that in the last 15 years there has been significant growth in outdoor dining activities and fees charged no longer reflect the annual retail rents for most of these businesses.
- 4.5 The changes are intended to achieve a more equitable fee structure for outdoor dining permits in comparison to the current four-tier structure, as 71% of traders would have fees tailored to their location, compared to 15% (i.e. Acland Street and Fitzroy Street), which is currently the case.
- 4.6 The proposed 22-tier fee structure presented to Council on 20 September 2018 has been determined based on the current locations of outdoor dining permits and the latest valuation data on average retail rents within each area. Maps delineating each proposed area are included as Attachment 5.
- 4.7 Within the 22-tier fee structure a business is classified as being in a Primary, Secondary or Tertiary area, depending on the location. Businesses located within a Primary area with a higher valuation would be charged a higher rate than those in a Secondary or Tertiary area.
- 4.8 Application of the new fee structure would result in 351 (82.4%) traders receiving discounts of between 3.1% and 56.2% and 75 (17.5%) of traders receiving increases of between 2.6% and 48.1% as shown in Table 1. Where fees would increase by greater than 20%, (Acland Street Primary and Secondary areas), it is proposed that the fee structure is introduced over two financial years.

Table 1 – Increase/decrease of charges proposed

	Rate - 20%	
% fees change	# outdoor dining permit holders	% outdoor dining permit holders
Reduced fee	351	82.4%
1% - 10% increase	27	6.3%
11% - 20% increase	10	2.3%
21% - 30% increase	0	0%
31% - 40% increase	27	6.3%
41% - 50% increase	11	2.6%
51% - 60% increase	0	0%
61% - 70% increase	0	0%
71% - 80% increase	0	0%



81% - 90% increase	0	0%
91% - 100% increase	0	0%

Table 2 details the locations where increases would occur. Of the 75 traders that would be impacted, 27 would have increases of less than 10%.

Table 2 – Proposed increases by area / setting (1x table + 4x chairs)

Area	# traders	Fees charged 2018/19	Proposed charge	Increase %
Acland Street Secondary	11	\$351.00	\$520.00	48.1%
Acland Street Primary	27	\$588.95	\$800.00	35.8%
Bridport Street Secondary	10	\$351.00	\$400.00	14%
Bridport Street Primary	9	\$588.95	\$640.00	8.7%
Clarendon Street Secondary	4	\$351.00	\$380.00	8.3%
Barkly Street Secondary	14	\$351.00	\$360.00	2.6%

Proposed outdoor dining incentives

- 4.9 Two incentives were included in the preferred option to further support traders as a component of the proposed Footpath Trading Fee policy.
- Supporting outdoor dining trials and new businesses by discounting fees by 50% for the first year where outdoor dining has not previously occurred.
 - Discounts would be provided to businesses affected by major construction works. This would be on a case-by-case basis and comparable to the duration of the impact.

Community Consultation Approach

- 4.10 A five-week community consultation program was conducted between 18 October 2018 and 22 November 2018.
- 4.11 420 current outdoor dining permit-holders were sent correspondence advising of the proposed changes to the fee structure and new incentives. Each letter included a comparison between the current and proposed outdoor dining charges relevant to individual trader's location, a map of the precinct relevant to each trader, a table of all current and proposed outdoor dining charges, a copy of the Have Your Say online survey and a 'reply paid' envelope.
- 4.12 Letters to the 38 traders in the proposed Acland Street Primary and Secondary areas, where the largest fee increases would occur included an explanation of the proposed yearly increments and an invitation to meet with Council officers to explain the changes.
- 4.13 At the commencement of the consultation period officers met with the Presidents of Acland Street Village Business Association, Fitzroy Street Business Association and Port Melbourne Business Association. These meetings were used to provide



information on the proposed changes to Footpath Trading Fee policy and to encourage trader participation in the consultation.

- 4.14 The proposed fee structure was promoted on Council's social media with an invitation to provide feedback via Council's 'Have Your Say' website. This included information, 'Frequently Asked Questions' and a factsheet explaining the proposed changes, support and incentives, links to the complete suite of proposed precinct maps and a comparison table of the current and proposed fee structure. Refer to Attachment 1 for the questionnaire provided to the current outdoor dining permit-holders.
- 4.15 At the end of the consultation period 88 responses were received. Thirty responses were from individuals who own or operate a business in the municipality, with 27 responding that they own a hospitality business within the municipality. Most respondents (58), nominated that they live in the municipality. Seven respondents indicated they both live and operate a business in the municipality.
- 4.16 A submission was received from the Fitzroy Street Business Association, Refer Attachment 2. One late submission was received on 24 January 2019 from the Acland Street Village Business Association, refer to Attachment 3.
- 4.17 The feedback received from the consultation (apart from the late submission by the ASVBA), has been independently analysed and captured in the Engagement Summary Report. Refer Attachment 4.

Consultation Feedback

- 4.18 Most respondents (94.3%) agreed that outdoor dining adds to the vibrancy of the City of Port Phillip.

Purpose for a new fee structure

- 4.19 Traders see the proposed fee structure as an appropriate and effective way of achieving equity, especially where variance in foot traffic and commercial success exist.
- 4.20 Most respondents (72.1%) understand why the new fee structure has been proposed. The findings also reveal that the community would like an explanation in plain language about why a fee exists and how revenue raised from fees are used.

Officer comments:

- 4.21 The proposed amendments to the fee structure reflect the changes that have occurred in our municipality since the current fee structure was introduced in 2003.
- 4.22 Traders were invited to contact Council if they had any questions.
- 4.23 The information provided to businesses and the community regarding the proposed fee structure will be further reviewed to improve clarity, transparency and its ease of understanding. This will include information explaining how revenue raised supports the myriad of Council services, including directly benefiting traders such as street cleaning and footpath maintenance.

Increasing Equity

- 4.24 Approximately one third of respondents (34.5%) stated they 'agree' or 'strongly agree' that the proposed changes increased equity because fee reductions are good for the local economy and good for traders. Positive comments were mostly relating to the reduction of fees and fairness in the approach.



4.25 Less than a fifth of respondents (17.9%) responded negatively, however a theme of these views was that fees charged are a form of revenue raising and that retail rents are an unstable metric. Negative feedback was also strongest in the suburbs of St Kilda and Albert Park.

4.26 Negative comments were also received relating to the congestion that can occur between pedestrian movements and outdoor dining activities, in some cases making footpaths inaccessible where patrons are not being sufficiently managed.

Officer comments:

4.27 This model is intended to implement an equitable method to determine fees charge for use of a footpath by a business, as it acknowledges the cost of operating a business in our city is largely dependent upon its location. From 2019/20 financial year the valuation data obtained on retail rents and used to adjust the rates charged for outdoor dining will be available annually.

4.28 Most traders (82.4%) will see their annual footpath trading fees decrease. Information will be provided to further explain how revenue from outdoor dining fees are used.

4.29 Issues related to amenity raised by respondents have been referred to the relevant Council department (Local Laws).

Increasing Transparency

4.30 Respondents were largely neutral (40% of responses), as to whether they believed the new fee structure would increase transparency. More than a third (37.5%) either agree or strongly agree, whereas about a fifth (22.5%) disagreed or strongly disagreed. Traders and stakeholders would like access to the formula and data underpinning the proposed fee structure to enhance transparency.

4.31 Of the respondents that agreed to this question, a common theme was that it made it easier to understand why some areas attract higher or lower fees and understanding of the logic between linking fees to rental rates. Respondents also felt more could be done to attract tenants and support businesses in lower performing precincts.

4.32 While respondents with opposing views understand the logic of linking fees to rental rates, they consider this model may be flawed in locations experiencing high vacancy rates.

Officer comments:

4.33 For comparison, Council officers investigated how outdoor dining fees are determined at inner-city Councils. The CoPP model is the only one that directly relates fees charged to the most recent valuations of retail rents and hence a measure of economic health for each precinct.

4.34 To support businesses with high occupancy rates and lack of vibrancy `a new 'Revitalisation' rate is proposed. This would be used where retail rental rates are in decline and retail vacancy rates have increased. This is discussed further from Sections 4.58 to 4.65.

4.35 Council has implemented a Placemaking Program. This program will identify opportunities to activate lower performing precincts and could further incentivise outdoor dining.



Fitzroy Street Business Association

- 4.36 A written submission was received from the Fitzroy Street Business Association (FSBA), refer to Attachment 1. Feedback is summarised below and includes:
- 4.36.1 Recognition of a modest reduction in the proposed outdoor dining fees for this precinct, but a desire for these costs to be entirely suspended.
 - 4.36.2 Recognition of the value added by outdoor dining to the activeness and vibrancy of the precinct.
 - 4.36.3 Questioning the methodology of using retail rent valuation data to determine outdoor dining fees and the reliability of this data to delineate between the proposed 'Primary' and 'Secondary' areas.
 - 4.36.4 Aside from footpath trading fees, the additional burdens of Council rates, including public liability insurance premiums to use the footpath are all paid for by the businesses.
 - 4.36.5 The unreasonable cost on businesses to provide greening opportunities, (planter boxes).
 - 4.36.6 Anti-social behaviour in sections of the precinct impacting on perceptions of safety.
 - 4.36.7 The streetscape is degraded and lacks maintenance, with several premises vacant.

Officer comments:

- 4.37 The current fee structure was introduced to Fitzroy Street in 2004/2005 when the location was recognised as a premium precinct.
- 4.38 In August 2015, as part of the Fitzroy Street Action Plan and Council's on-going support for this precinct, Council approved a temporary reduction in footpath trading fees to Fitzroy Street for 2015/16, which has continued for 2016/17 and 2017/18.
- 4.39 The 2018/19 valuation data for Fitzroy Street has shown a decline in the average retail rents for this precinct and the fees charged in 2018/19 are now less than the 'Standard rate', charging \$548.30 per setting (i.e. one table and four chairs).
- 4.40 The areas proposed to be defined as Fitzroy Street Primary and Secondary areas and rates charged are informed by the latest independent valuation data, based on new, signed retail rent leases. Under the proposed 22-tier fee structure the fees that would be charged to the 39 businesses in the Fitzroy Street precinct would be reduced by 38% for 13 traders, 19.8% for 21 traders and 3.1% for 5 traders.
- 4.41 A 'Revitalisation' rate has been proposed to support outdoor dining activity where average retail rents are in decline and where vacancy rates are at 20% or greater. Using these criteria, the 'Revitalisation' rate would be applied to the Fitzroy Street Primary area in the 2019/20 financial year and reviewed annually. The addition of this new rate to the proposed Footpath Trading Fee policy is discussed further in Sections 4.58 to 4.65.



- 4.42 The opportunity to encourage businesses to include greening to outdoor dining areas is also discussed further in this report. It is proposed to remove the fee charged for these items (\$113.55), from Council's 2019/20 budget.
- 4.43 The concerns raised regarding parking, homelessness and safety have been referred to the relevant areas of Council, including Transport Choices, Diversity & Inclusion, Safety & Amenity and Placemaking.

Acland Street Village Business Association (ACVBA)

- 4.44 The ACVBA submitted a late response on 24 January 2019, Attachment 3. This response could not be included in the Engagement Summary Report due to deadlines, however it has been considered by officers in the preparation of this report. In summary, this submission included the following matters:
- 4.45 Recognition of outdoor dining and greening opportunities as key elements to the vibrant street-life of Acland Street.
- 4.46 Concerns that a high number of vacant shops, the cost and loss of on-street parking and down-turn in business since the Acland Street Upgrade continues to challenge businesses.
- 4.47 The challenges of homelessness, safety and subsequent negative publicity for the area.
- 4.48 Disagreement with retail rent data being used as the method to calculate the outdoor dining fees, when Acland Street attracts the highest retail rents in the CoPP.

Officer comments:

- 4.49 The 12-month Evaluation Report to Council on 16 May 2018 noted that after the Acland Street Upgrade, with the removal of parking and creation of wider outdoor dining areas, the 23 trading zones had increased in area by 110%, from 110sq/m to 232sq/m. The larger trading zones resulted in an 89% increase in patron capacity from 185 to 350 patrons.
- 4.50 The latest valuation data reports the average retail rents in the proposed Acland Street Primary area have remained relatively stable, from \$1,025 p/sq metre in 2016, to \$1,000 p/sq metre in 2018. Outdoor dining fees in the Acland Street Primary area have been discounted for 4 years since 2015/16, as a result of the Fitzroy Street Action Plan and the Acland Street Upgrade project, due to the reduced visitation in this precinct during the tram stop relocation and streetscape works. The proposed fee is based on the latest average retail rents, will be implemented over two financial years and is considered an equitable approach to this fee calculation.
- 4.51 The proposed Acland Street Secondary area is currently charged at the 'Discounted rate', which is well below the retail rent valuation data for this location
- 4.52 The occupancy rate of businesses in the proposed Acland Street Primary is high with vacancy rates ranging from 5% to 11%.
- 4.53 The opportunity to encourage businesses to include greening to outdoor dining areas is discussed further with a proposed new initiative to remove the fee charged for traders that provide planter boxes.
- 4.54 The concerns raised by the ACVBA regarding parking, homelessness and safety have been referred to the relevant areas of Council, including Transport Choices, Safety & Amenity, Diversity & Inclusion and Placemaking to address as required.



Support and Incentives

- 4.55 Most traders who responded do not use the interest fee part-payment plans offered by Council. The most common reason given was that it was not of interest to them. Many respondents stated they did not know about the offer, even though the option is included in Council correspondence sent with the renewal invoices each year, including a part-payment agreement form. Respondents feedback acknowledged some business operators do not read the information that is sent by Council.
- 4.56 There was minimal interest in the 50% discount to trial outdoor dining in new locations, however this initiative was not specifically tested with businesses not currently offering outdoor footpath trading.

Officers comment:

- 4.57 Approximately a quarter of all traders with outdoor dining permits currently use the interest free part-payment plan that is offered. To increase awareness of the support provided to traders, officers will review and update correspondence, annual renewal notices and information on Council’s website. This information will be provided by Council officers to traders at meetings and site visits.

Supporting Business Vibrancy and Occupancy

- 4.58 In response to community feedback regarding vacancy rates in Fitzroy Street and Acland Street, occupancy surveys were undertaken for these areas. For comparison, occupancy surveys were also undertaken in Bay Street, Bridport Street and Clarendon Street. These surveys were conducted from 13 March 2019 and 18 March 2019 and the findings are detailed in Table 3 below. It was identified the proposed Fitzroy Street Primary area had the highest vacancy rate of 21 (34%) businesses in the city.

Table 3 – Proposed areas and vacancy rates

Proposed rated area	Occupied		Vacant		Total
	#	%	#	%	
Fitzroy Street Primary	41	66	21	34	62
Fitzroy Street Secondary	49	86	8	14	57
Acland Street Primary	79	89	10	11	89
Bridport Street Secondary	57	89	7	11	64
Clarendon Street Primary	101	90	11	10	112
Bridport Street Primary	39	91	4	10	43
Clarendon Street Secondary	77	92	7	8	84
Bay Street Primary	90	93	7	7	97
Bay Street Secondary	101	93	8	7	109
Acland Street Secondary	18	95	1	5	19

- 4.59 These vacancy rates have been compared to data from the Inner Melbourne Action Plan (2018/19) and vacancy rates of key precincts in neighbouring councils.
- 4.60 High vacancy rates may be an indicator of challenging economic and property conditions. If sustained, high vacancy rates may impact on local businesses offerings, choice and appeal for customers.



4.61 To assist businesses in low occupancy areas to establish outdoor dining, officers propose to introduce a new 'Revitalisation' rate, for outdoor dining at a rate equivalent to the lowest rate, 'Tertiary' rate, within the 22-tier fee structure. This rate would be applied where there is a:

- Reduction in the average retail rent, informed by the valuation data commissioned by Council, and
- 20% or greater vacancy rate of ground floor commercial tenancies occurs.

4.62 For the 2019/20 financial year, the proposed 'Revitalisation' rate would be applied to the Fitzroy Street Primary area, where average retail rents have declined by 12% from \$625 per square metre in 2016, to \$550 in 2018, and the vacancy rate of 34% as at March 2019.

4.63 As demonstrated in Table 4 below, the outdoor dining charges to business in the Fitzroy Street Primary area would be reduced per setting (1x table and 4x chairs), from \$548.30 in 2017/18, to \$240.00 in 2019/20. This would be a reduction of \$308.30 (56.2%), per setting.

4.64 Table 4 – Fitzroy Street Primary area comparison rates

	2018/19 Fitzroy Street rate	2019/20 - Proposed Fitzroy Street Primary area rate	2019/20 - Proposed Revitalisation rate
Table	\$92.10	\$61.60	\$33.60
Chair	\$114.05	\$94.60	\$51.60
Cost per setting (1x table + 4x chairs)	\$548.30	\$440.00	\$240.00
% Change		-19.8%	-56.2%

4.65 If the proposed 'Revitalisation' rate were to be applied to the Fitzroy Street Primary area, the footpath trading fee income would be reduced by \$21,225 in 2019/20 financial year.

Summary

4.66 The three principles guiding the proposed updates to the fee structure for outdoor dining are equity, transparency and ease of application.

4.67 If the Footpath Trading Fee policy (including incentives) is implemented, outdoor dining fees would be reduced for 82.4% of current outdoor dining permit holders. Council would be able to further discount footpath trading fees in any location should Council deem it appropriate. The Placemaking Program also provides opportunities to incentivise outdoor dining activity in targeted locations.

4.68 Extensive consultation was undertaken on the changes to the Footpath Trading Fee policy endorsed by Council on 20 September 2018. Feedback data indicates that outdoor dining on footpaths is highly regarded and the reasons for proposing a new Footpath Trading Fee policy is largely understood. Some traders expressed a view that having a footpath trading fee will impact on the viability of their business. There is a perception that the vibrancy of certain precincts is at risk. The Acland Street Village Business Association and the Fitzroy Street Business Association recommended that



Council do not charge for planter boxes as they add to the amenity and vibrancy of the neighbourhood.

- 4.69 Council officers continue to recommend the incentives proposed in the previous Council report, with additional incentives responding to feedback received in the community consultation. These changes would commence on 1 July 2019.
- 4.70 The proposed changes to the footpath trading fees policy and incentives are outlined below:
- 4.70.1 The introduction of a 22-tier precinct based fee structure charging a rate of 20% of average retail rents and a rate of 30% where glass screens are used. From 2019/20 financial year the valuation data obtained on retail rents and used to adjust the rates charged for outdoor dining will be available annually.
- 4.70.2 Introduce a new 'Revitalisation' rate, for use in any of the rated areas, charging equivalent to the cheapest 'Tertiary' rate. This rate would be used when:
- a) a reduction in the average retail rents occurs, informed by the valuation data commissioned by Council annually, and
 - b) a 20% or greater vacancy rate of ground floor commercial tenancies occurs.
- 4.70.3 Support businesses in the 'Fitzroy Street Primary' area by charging at the 'Revitalisation' rate in the 2019/20 financial year.
- 4.70.4 Encourage outdoor dining opportunities by discounting fees by 50% for the first year, for any business where outdoor dining has not previously occurred, or at an existing business which has not provided outdoor dining for two years.
- 4.70.5 Further support new businesses in any area that would be charged at the 'Revitalisation' rate, by discounting fees by 100% for the first year, for any business where outdoor dining has not previously occurred, or at an existing business which has not provided outdoor dining for two years
- 4.70.6 Reduce the annual administrative renewal fee for all footpath trading permits to \$70.00 in the 2019/20 financial year.
- 4.70.7 Remove the \$113.55 planter box fee from Council's fees and charges.
- 4.70.8 Providing discounts to outdoor dining permit-holders affected by major building works including streetscape upgrades, with discounts based on the duration of the works and the discounts applied on a case-by-case basis.
- 4.70.9 Where fees increase by 20% or greater, introduce fees incrementally over two financial years.
- 4.71 Officers will continue to look for opportunities to simplify communications to traders by using plain English wherever possible, noting that some technical language may still be required.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Community feedback was sought on the proposed Footpath Trading fee policy. Consultation commenced on 18 October 2018, until 22 November 2018 and included the following:



- 5.1.1 420 current outdoor dining permit-holders were sent correspondence. These were hand-delivered to the traders in the Fitzroy Street Primary and Secondary areas.
 - 5.1.2 38 permit-holders in the proposed Acland Street Primary and Secondary areas were offered meetings. No meetings were requested by traders in the Acland Street precinct.
 - 5.1.3 One meeting was requested and held with an Albert Park trader.
 - 5.1.4 Meetings with representatives of the Acland Street, Fitzroy Street and Port Melbourne business associations to inform and encourage the participation of traders in the consultation.
- 5.2 At the end of this consultation period officers had received 88 Have Your Say surveys and one submission from Fitzroy Street Business Association, Attachment 1.
- 5.3 The responses to this survey have been independently analysed by OurSay and the comments received are summarised in the Engagement Summary Report, Attachment 3.
- 5.4 A late submission was also received from the Acland Street Village Business Association (ASVBA), after the independent analysis was concluded. The matters raised in the ASVBA submission were analysed by Council officers. In response to these submissions Council officers have proposed amending and increasing the recommended incentives to traders regarding outdoor dining.

6. LEGAL AND RISK IMPLICATIONS

If Council did not amend its footpath trading fee structure to the precinct-specific model, this could lead to criticism of the disparity in fees charged compared to retail rents across the municipality.

7. FINANCIAL IMPACT

- 7.1 The table of the proposed fee structure as shown in Attachment 6 includes the changes made following the period of consultation:
- The incremental rates that would be charged in 2019/20 financial year to the Acland Street Primary and Secondary areas,
 - The new Revitalisation rate for the Fitzroy Street Primary area,
 - Reductions to the permit renewal fee and removal of the planter box fee.
 - The proposed charges for outdoor dining furniture when used with glass screens.
- 7.2 In the 2018/19 financial year the income from footpath trading activities was forecast at \$1,028,000 which has been reduced by \$60,000 to \$968,000. This is a result of the discounts provided to traders impacted by streetscape upgrades.
- 7.3 If the recommendation is endorsed by Council, the estimated income for footpath trading activities for 2019/20 financial year would be \$871,000, equating to a reduction of \$97,000, (compared to the draft 2019/20 budget out for community consultation). The \$97,000 includes an estimated \$7,435 to transition businesses to the proposed 22-tier fee structure and \$89,565 for the proposed discounts and incentives detailed in Table 5.



Table 5 - Estimated impact of Footpath Trading Fee Policy on 2019/20 financial year

	Draft budget 2019/20	Amendment budget 2019/20	Estimated cost to Council
Discount outdoor dining fees by 50% for the first year, for any business where outdoor dining has not previously occurred, or at an existing business which has not which has not provided outdoor dining for two years	\$36,000	\$18,000	\$18,000
Reducing the annual administrative renewal fee for all footpath trading permits from \$120 to \$70 commencing 2019/20 financial year, to encourage existing traders to retain their permits	\$65,760	\$38,400	\$27,400
Removing the \$113.55 planter box fee from 2019/20 to incentivise street greening.	\$17,000	\$0	\$17,000
Discounting outdoor dining fees because of major building works including streetscape upgrades	\$0	\$0	\$2,500*
Application of 'Revitalisation rate' to Fitzroy Street Primary area.	\$48,430	\$21,225	\$27,205
Total			\$89,656

* Discounts to traders impacted by major building works or streetscape upgrades, yet to be determined.

- 7.4 The reduction in Council's income from outdoor dining may be off-set in the longer-term by:
- 7.4.1 encouraging outdoor dining activity to existing businesses, particularly in areas that would be defined as 'Tertiary', or where the 'Revitalisation' rate has been used to support businesses.
 - 7.4.2 incentivising existing traders to renew their permits, with the reduced permit renewal fee.
 - 7.4.3 incentivising businesses to trial outdoor dining in new locations where this activity has not previously occurred, and where outdoor dining has not occurred for more than two years.
- 7.5 The annual cost of obtaining retail rent valuation data is estimated at \$8,000 and is included in Council's draft 2019/20 budget.



8. ENVIRONMENTAL IMPACT

Nil

9. COMMUNITY IMPACT

9.1 European style, alfresco dining is a key ingredient to achieving vibrancy within our local shopping precincts. The proposed incentives and discounts aim to support traders and maximise outdoor dining opportunities.

9.2 Council's income from the commercial use of public space contributes to the delivery of projects and services that benefit traders and the greater Port Phillip community.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 Strategic Direction 4 - We are growing and keeping our character

Outdoor dining adds to the vibrancy and safety of our villages that continue to evolve in response to a growing population. The proposed amendments to the footpath trading fee structure would reflect the changes that have occurred in our municipality since its initial introduction in 2003, while continuing to support the on-going use of public land for commercial purposes.

10.2 Strategic Direction 5 - Our Commitment to you

The proposed Footpath Trading Fee policy with amendments and new incentives changes would help to ensure the fee structure for outdoor dining is fair and equitable. The incentives support businesses in areas of declining retail rents and high vacancies, where impacted by major streetscape works and where new outdoor dining trials could occur.

11. IMPLEMENTATION STRATEGY

11.1 When Council's budget including the Fees and Charges for 2019/20 has been adopted, officers would commence the transition for all existing permit-holders from the current fee structure, ahead of the 2019/20 permit renewal notice process that commences mid-June 2019.

11.2 Footpath Trading officers would continue to work with the Placemaking Program to ensure further reductions and discounts are explored where these may be used to further incentivise outdoor dining activities in targeted locations.

11.3 The next updated retail rent valuation data would be available in early 2020, to inform any adjustments to the outdoor dining fees that would be charged in the 2020/21 financial year.

12. COMMUNICATION

12.1 The new Footpath Trading Fee policy would be advertised on Council's websites including the footpath trading page and 'Have Your Say' consultation portal.

12.2 All current footpath trading permit-holders would be informed of the proposed changes including support and incentives available with the 2019/20 renewal notices that would be issued in mid-June 2019.

12.3 Outdoor dining permit-holders within the Acland Street Primary and Secondary areas where fees would be increased incrementally over two years would receive tailored correspondence to explain the changes.



12.4 Outdoor dining permit-holders within the Fitzroy Street Primary area where the 'Revitalisation' rate would be applied would also receive tailored correspondence to explain the additional financial support offered.

12.5 Officers would inform each business association of the adoption of the Footpath Trading Fee policy and incentives, including the process of future reviews.

13. OFFICER DIRECT OR INDIRECT INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in the matter.

TRIM FILE NO: 13/01/04

ATTACHMENTS

1. 'Have Your Say' survey form
2. Submission - Fitzroy Street Business Association
3. Submission (Late) - Acland Street Village Business Association
4. Engagement summary report - Footpath trading fee policy review
5. Maps - Proposed Footpath Trading Fee Structure
6. Proposed footpath trading fee structure and charges for 2019/20