



**13.2** FITZROY STREET AND ENVIRONS BUSINESS PRECINCT  
SPECIAL RATE AND CHARGE SCHEME 2019-2024.  
CONSIDERATION OF SUBMISSIONS AND OBJECTIONS AND  
DECLARATION OF SCHEME REPORT

**EXECUTIVE MEMBER:** TONY KEENAN, GENERAL MANAGER, COMMUNITY AND  
ECONOMIC DEVELOPMENT

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**1. PURPOSE**

- 1.1 To Consider the submissions received by Council under 163A and 223 of the *Local Government Act 1989* (Act) and to take account of the objections lodged with Council under section 163B of the Act in relation to the proposed renewal to of the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme 2019-2024 and make a decision in relation to declare the scheme.

**2. EXECUTIVE SUMMARY**

- 2.1 A special rate or charge or combined scheme is governed generally under Part 8 of the *Local Government Act 1989* (Act) (particularly section 163 and the following sections). In declaring a special rate or charge or combined scheme, Council must consider whether
- 2.1.1 The proposal relates to the performance of a function of Council (authorised by section 163 of the Act).
- 2.1.2 There will be a special benefit to those properties that fall within the proposed Scheme boundary.
- 2.1.3 There is a reasonable distribution of the rate or charge amongst those persons liable to pay the rate or charge.
- 2.2 On 1 May 2018, the Fitzroy Street Business Association (FSBA) wrote to Council to request the commencement of the Intention to Declare statutory process to renew the Fitzroy Street and Environs Special Rate and Charge Scheme for 2019-2024 (**Attachment 1**).
- 2.3 The current Fitzroy Street and Environs Scheme (2014-2019) has 241 properties within the Scheme boundary. The current Scheme levies a maximum amount of \$985,000 over the five years, which equates to \$197,000 per annum.
- 2.4 The newly proposed Fitzroy Street and Environs Scheme (2019-2024) has 220 properties within the proposed Scheme boundary. The new Scheme excludes all previous foreshore properties, as agreed between Council and the FSBA executive (the excluded foreshore properties include the Seabaths complex and the Royal Melbourne Yacht Squadron).



The proposed Scheme will raise a maximum amount of \$1,083,500 over the five years of the Scheme, which equates to \$216,700 per annum. A map of the proposed Scheme boundary area is included as **Attachment 2**.

- 2.5 In order to distribute the Scheme levy evenly across the commercial properties within the Scheme boundary, the proposed Scheme is keeping the four current benefit levels – primary, secondary, tertiary and quaternary. With the reduction in properties across the proposed new Scheme and the 10% proposed increase in revenue, the FSBA together with Council officers have decided to increase the minimum and maximum charges across the four benefit levels in order to distribute the increased revenue evenly across the properties. See **Attachment 3** – Fitzroy Street and Environs Intention to Declare Public Notice – for the breakdowns of the benefit levels and the boundary addresses.
- 2.6 At its ordinary meeting on 17 October 2018, Council resolved to commence the statutory process to renew the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme for 2019-2024.
- 2.7 In accordance with Council's statutory obligations under section 163(1A) of the Act, a public notice outlining the details of the proposed Scheme was published in the *Port Phillip Leader* on Tuesday, 23 October 2018. This public notice commenced the statutory process for receipt of submissions and objections in relation to the proposed Scheme. The statutory process concluded at 5 pm on Thursday, 22 November 2018.
- 2.8 On Thursday, 25 October 2018, in accordance with section 163(1C) of the Act, Council sent letters to all affected property owners and occupiers within the proposed Scheme boundary advising of Council's Intention to Declare the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme for 2019-2024, the commencement of the statutory process (including providing to those persons a copy of the public notice) and an estimate of the levy that would be applied to the property in the 2019/20 rating year.
- 2.9 Council received 6 submissions in support of the Scheme. Council also received 13 objections to the Scheme (including late objections). AT the time of writing this report, no persons requested to speak in support of their written submissions or objections.



### 3. RECOMMENDATION

That Council:

- 3.1 Having considered all submissions received and taken account of all objections lodged and having complied with the requirements of sections 163A, 163B and 223 of the *Local Government Act 1989* (Act), and otherwise according to law, hereby declares the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme under section 163(1) of the Act for the purposes of defraying expenses associated with marketing, advertising, promotion and business development of the Fitzroy Street and Environs Business Precinct as detailed in the attached Declaration of Special Rate and Charge (refer to **Attachment 5**).
- 3.2 Authorises the Fitzroy Street Business Association (Association) to administer the proceeds of the Special Rate and Charge on the express condition that the Association enters into a funding agreement with Council for the period of the Special Rate and Charge.
- 3.3 Authorises Council officers with the appropriate authority, for the purposes of paragraph 3.2 of this resolution, to prepare the funding agreement between Council and the Association by which administrative arrangements in relation to the Special Rate and Charge 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 and Charge in accordance with its obligations under the Act to do so, and such funding agreement to be submitted to Council for executing.
- 3.4 Gives notice to all owners and occupiers of properties included in the Scheme, and all persons who have lodged a submission and/or objection in writing of the decision of Council to declare and levy the Special Rate and Charge commencing on 1 July 2019, and the reasons for the decision.
- 3.5 For the purposes of paragraph 3.4, the reasons for the decision of Council to declare the Special Rate and Charge are that:
  - 3.5.1 There is minimal objection to the Scheme (comprising only 5.9%) and it is otherwise considered that there is a broad level of support for the Special Rate and Charge from all property owners and occupiers;
  - 3.5.2 Council considers that it is acting in accordance with the functions and powers conferred on it under the Act, 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;



- 3.5.3 All persons who are liable or required to pay the Special Rate and Charge 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; and
- 3.5.4 The basis of the distribution of the Special Rate and Charge amongst those persons who are liable or required to pay the Special Rate and Charge is considered to be fair and reasonable.
- 3.6 Advises the Association of the matters relevant to it and set out in paragraphs 3.1, 3.2 and 3.3 of this resolution.
- 3.7 Notes the properties that are included in the Special Rate and Charge Scheme area will be subject to general revaluations and supplementary valuations on the same cycle as the City of Port Phillip general rates and charges.

#### 4. KEY POINTS/ISSUES

- 4.1 A special rate or charge or combined scheme is governed generally under Part 8 of the Act (particularly section 163 and the following sections). In declaring a special rate or charge or combined scheme, Council must consider whether:
- 4.1.1 The proposal relates to the performance of a function of Council (authorised by section 163 of the Act).
- 4.1.2 There will be a special benefit to those properties that fall within the proposed Scheme boundary.
- 4.1.3 There is a reasonable distribution of the rate or charge amongst those persons liable to pay the rate or charge.
- 4.2 On 1 May 2018, the FSBA wrote to Council to request the commencement of the Intention to Declare statutory process to renew the Fitzroy Street and Environs Special Rate and Charge Scheme for 2019-2024 (**Attachment 1**).
- 4.3 The Scheme was first declared in 2006, and renewed in 2011 and again in 2014.
- 4.4 The current Fitzroy Street and Environs Scheme (2014-2019) has 241 properties within the Scheme boundary. The current Scheme levies a maximum amount of \$985,000 over the five years, which equates to \$197,000 per annum.
- 4.5 The newly proposed Fitzroy Street and Environs Scheme (2019-2024) has 220 properties within the proposed Scheme boundary. The new Scheme excludes all previous foreshore properties as agreed between Council officers and the FSBA executive (the excluded foreshore properties include the Seabaths complex and the Royal Melbourne Yacht Squadron). The proposed Scheme will raise a maximum amount of \$1,083,500 over the five years of the Scheme, which equates to \$216,700 per annum. A map of the proposed Scheme boundary area is included as **Attachment 2**.



- 4.6 Properties that are used or reasonably capable of being used for commercial, retail, entertainment or professional purposes that fall into the below address ranges are included in the proposed Scheme (2019-2024):
- 2-6 Acland Street (inclusive);
  - 11 and 12 The Esplanade;
  - 1-203 Fitzroy Street (inclusive) and 8-64 Fitzroy Street (inclusive);
  - 9-19 Grey Street (inclusive) and 4- 24 Grey Street (inclusive);
  - 1 George Lane; and
  - 1 St Kilda Road.
- 4.7 In order to distribute the Scheme levy evenly across the commercial properties within the Scheme boundary, the proposed Scheme is keeping the four current benefit levels – primary, secondary, tertiary and quaternary. With the reduction in properties across the newly proposed Scheme and the 10% proposed increase in revenue, the FSBA together with Council officers have chosen to increase the minimum and maximum charges across the four benefit levels in order to distribute the increased revenue evenly across the properties. **See Attachment 3** – Fitzroy Street and Environs Intention to Declare Public Notice – for the breakdowns of the benefit levels and boundary addresses.
- 4.8 If during the period of the Scheme redevelopments occur to properties within the proposed Scheme boundary, those properties that are already levied will have their levy adjusted, any new eligible properties that have not previously been levied will not be added to the Scheme, and any property that changes from commercial, retail, leisure, tourism or light industrial to residential use will be removed from the Scheme. Amendments to the Scheme will occur from the date the supplementary valuation changes the property's Land Classification Code.
- 4.9 The FSBA has proposed (and Council officers have agreed) to increase the maximum levy revenue raised by 10% over the previous Scheme from \$985,000 to \$1,083,500 over the five-year period.
- 4.10 The FSBA has completed a Business Plan for the period of the Scheme (2019-2024). It is expected that this will be implemented upon Council's declaration of the new Scheme, and will form part of the new funding agreement with Council.
- 4.11 Section 163B(6) of the Act states that '*A Council can not make a declaration if the Council receives objections from persons who will be required to pay the special rate or special charge in respect of a majority of the rateable properties [(51%)] in respect of which the special rate or special charge would be imposed.*' If Council were to receive a majority of eligible objections, then Council would not be able to proceed with the proposed Special Rate and Charge Scheme (and the FSBA will then be unfunded). However, having now received and counted all submissions and objections. Council did not receive a majority of eligible objections in relation to the proposed scheme. Accordingly, section 163B(6) of the Act has no application.
- 4.12 At its ordinary meeting on 17 October 2018, Council resolved to commence the statutory process to renew the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme for 2019-2024.



- 4.13 In accordance with Council's statutory obligations under section 163(1A) of the Act, a public notice outlining the details of the proposed Scheme was published in the *Port Phillip Leader* on Tuesday, 23 October 2018. This public notice commenced the statutory process for receipt of submissions and objections in relation to the proposed Scheme. The statutory process concluded at 5 pm on Thursday, 22 November 2018.
- 4.14 On Thursday, 25 October 2018, in accordance with section 163(1C) of the Act, Council sent letters to all affected property owners and occupiers within the proposed Scheme boundary advising of Council's Intention to Declare the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme for 2019-2024, the commencement of the statutory process (including providing to those persons a copy of the public notice), and an estimate of the levy that would be applied to the property in the 2019/20 rating year.
- 4.15 Events and activities that have been delivered by the Special Rate and Charge Scheme include:
- 4.15.1 Halloween – a family friendly event that has gone from strength to strength over the last two years with performers, fancy dress, flash mobs and spooky fun.
- 4.15.2 Travel Writers Lunch – each year over 20 travel writers visit St Kilda for a distinctly St Kilda culinary experience. This event generates 12 months of social media and print promotion for the precinct and invitations are always in demand.
- 4.15.3 Fitzroy Street Local Love Campaign – re-engaging with 15,000 St Kilda locals to seek their feedback and social media engagement to encourage them to 'revisit' Fitzroy Street.

## 5. CONSULTATION AND STAKEHOLDERS

- 5.1 A public notice was published in the *Port Phillip Leader* on Tuesday, 23 October 2018. The public notice commenced the statutory process for receipt of submissions and objections in relation to the proposed Scheme. The statutory process concluded at 5 pm on Thursday, 22 November 2018.
- 5.2 On Thursday, 25 October, in accordance with section 163(1C) of the Act, Council sent letters to all affected property owners and occupiers within the proposed Scheme boundary advising of Council's Intention to Declare the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme for 2019-2024, the commencement of the statutory process (including providing to those persons a copy of the public notice) and an estimate of the levy that would be applied to the property in the 2019-20 rating year.
- 5.3 Council received 6 submissions in support of the Scheme. Council also received 11 objections to the Scheme (being 7 objections on behalf of 11 properties included in the Scheme) and a further 2 late objections after the period had closed (being 1 objection on behalf of 2 properties).



Having regard to the 220 properties included within the proposed Scheme, Council officers consider that a total of 13 objections received (including the late objections) comprising an objection percentage of 5.9% is minimal and there is therefore a greater level of general support for the Scheme's renewal. An officer summary of the submissions and objections received including officer's comments is included as **Attachment 4**.

- 5.4 Council acknowledged all submissions and objections received in writing, and provided those persons with details of the Council meeting at which Council would hear and consider submissions and for those persons to speak to their submissions if they wished. No persons wished to speak in support of their written submissions or objections at the time of writing this report.
- 5.5 The Economic Development team also contacted individual property owners and occupiers to speak with them about the proposed Scheme and dealt on an ongoing basis with the FSBA.

## 6. LEGAL AND RISK IMPLICATIONS

- 6.1 The risks associated with the proposal are limited by the following:
  - 6.1.1 The FSBA is required to submit financial reporting documentation every six months (profit and loss, balance sheet and marketing activity report). The Scheme monies will not be paid to the FSBA until all reporting is received and accepted by Council.
  - 6.1.2 The FSBA must be an incorporated entity through the life of the Scheme and must act in accordance with the *Associations Incorporation Reform Act 2012*.
  - 6.1.3 The FSBA is required to develop and adopt its five-year Business Plan to guide the expenditure of the funds.
  - 6.1.4 The FSBA is to expend the monies raised by the Scheme on behalf of Council as an administrator of the funds and is at all times bound by the funding agreement with Council and remains under the direction and control of Council in relation to the expenditure of the funds. Council reserves solely to itself all discretions relevant to the application of the proceeds of the Special Rate and Charge. Section 164 of the Act enables Council to discontinue the Scheme if there is any inappropriate expenditure.
  - 6.1.5 If Council does not wish to renew the Fitzroy Street and Environs Special Rate and Charge Scheme, there may be an expectation from commercial precincts that Council will instead fund the marketing and promotional activities for those precincts.



## 7. FINANCIAL IMPACT

- 7.1 Council will incur administrative costs for the renewal of the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme. These costs have been included in the 2018-2019 budget.
- 7.2 If the Scheme is successfully renewed, ongoing resources will be required within Council to monitor the Scheme, and these ongoing resources will be funded from the operational budget.
- 7.3 Council administers the collection of the Scheme funds for the life of the Scheme and distributes the funds to the FSBA in two half-yearly instalments after it has completed its rigorous reporting requirements.

## 8. ENVIRONMENTAL IMPACT

- 8.1 Financially sustainable business associations allow Council to work with precincts on sustainable and best practice programs that will reduce emissions, waste and energy usage, and achieve improved sustainability outcomes.
- 8.2 Vibrant local activity centres provide local residents with the opportunity to shop locally and sustainably by walking, cycling or taking public transport to access their centre rather than driving.

## 9. COMMUNITY IMPACT

- 9.1 The FSBA through the Special Rate and Charge Scheme funding has supported its local community and worked with social and community organisations to strengthen the bond between the community and their local activity centre. The FSBA has provided funding, promotion and support for local schools, St Kilda Mums, Sacred Heart Mission, etc. It has organised local community connection campaigns, such as the Fitzroy Street Local Love campaign, which connected the precinct with its local community. It has also actively engaged with the Pride Centre in order to bring change to the precinct.
- 9.2 Vibrant activity centres are critical to the health and development of the local community. Centres provide employment, community meeting places, resources, leisure opportunities and essential services to the community.
- 9.3 Local activity centres are reliant on the local economy and beyond supporting those centres by shopping and recreating there. Financially sustainable business associations provide greater engagement with the local community and promotion of activity centres.

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 This report provides Councillors with information concerning the declaration of a new five-year Special Rate and Charge Scheme (2019-2024) for the Fitzroy Street Precinct in St Kilda. This report relates directly to strategic direction five: We thrive by harnessing creativity. It specifically relates to A City of dynamic and distinctive retail precincts.



## 11. IMPLEMENTATION STRATEGY

### 11.1 TIMELINE

- 11.1.1 Council advises the Fitzroy Street Business Association of the Council decision.
- 11.1.2 Council advises all owners and occupiers of the properties included in the Schemes and all persons who have lodged a submissions and/or objection in writing of Council's decision to declare and levy the Special Rate and Charge commencing on 1 July 2019, and the reasons for the decision.
- 11.1.3 28 February 2019 to 28 April 2019 – Statutory opportunity for lodging objections with VCAT under section 185 of the Act (Note: Appeals must be lodged with VCAT in accordance with section 185 within 30 days of the date of issue of the notice to the person of the Special Rate and Charge Scheme).
- 11.1.4 Council enters into a Special Rate and Charge Funding Agreement with the Fitzroy Street Business Association, which will commence on 1 July 2019.

### 11.2 COMMUNICATION

- 11.2.1 Council advises, by letter, all of the affected property and business owners and all persons who have lodged a submission and/or objection of the decision regarding the renewal of the Fitzroy Street and Environs Precinct Special Rate and Charge Scheme 2019-2024 (including the reason for the decision) on 28 February 2019.
- 11.2.2 Council advises the Fitzroy Street Business Association of Council's decision regarding the Fitzroy Street and Environs Business Precinct Special Rate and Charge Scheme 2019-2024.
- 11.2.3 All affected property and business owners receive their yearly rates notice which outlines their levy payment.

## 12. OFFICER DIRECT OR INDIRECT INTEREST

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

**TRIM FILE NO:** 11/01/195

**ATTACHMENTS**

1. Fitzroy Street Business Association Request to Renew Special Rate and Charges Letter
2. Fitzroy Street and Environs Business Precinct Special Rates and Charges Boundary
3. Fitzroy Street and Environs Business Precinct Public Notice
4. Fitzroy Street Submissions and Objections Table
5. Declaration of Special Rate and Charge for Fitzroy Street Precinct 2019-2024