



**12.1 FITZROY STREET AND ENVIRONS SPECIAL RATE AND CHARGE RENEWAL 2019 - 2024 INTENTION TO DECLARE REPORT**

**EXECUTIVE MEMBER: MARY MCGORRY, INTERIM GENERAL MANAGER COMMUNITY AND ECONOMIC DEVELOPMENT, COMMUNITY AND ECONOMIC DEVELOPMENT**

**PREPARED BY: DALIQUE KNIGHT, CITY BUSINESS DEVELOPMENT OFFICER**

**1. PURPOSE**

- 1.1 To commence the statutory process to renew the Fitzroy Street Special Rate and Charge Scheme, for the 1 July 2019 to 30 June 2024 period, for the purpose of marketing, tourism, promotion and business development of the Fitzroy Street and Environs business precinct.

**2. EXECUTIVE SUMMARY**

- 2.1 The City of Port Phillip currently has three Special Rate schemes in operation – Port Melbourne, Acland Street Village and Fitzroy Street. All Port Phillip schemes incorporate the collection of a levy from commercial properties within a defined geographic area for the sole purpose of marketing, promotion and business development of the specified Activity Centre. All funds collected are distributed to the incorporated Business Association under a funding agreement with Council.
- 2.2 A Special Rate or Charge or Combined scheme is governed by Sections 163 to 185C of the Local Government Act 1989. In declaring a Special Rate or Charge or Combined Scheme, Council must consider that:
- the proposal relates to the performance of a function authorised under Section 163 of the Act
  - there will be a special benefit to those persons liable to pay the Special Rate
  - there is a reasonable distribution of the rate amongst those persons liable to pay the Scheme levy
- 2.3 On 1<sup>st</sup> May 2018 the Fitzroy Street Business Associations (FSBA) wrote to Council to request commencement of the Intention to Declare statutory process to renew the Fitzroy Street and Environs Special Rate and Charge Schemes for 2019-2024. (Attachment 1)



### 3. RECOMMENDATION

That Council:

- 3.1 Notes the letter received from the Fitzroy Street Business Association (FSBA) requesting the renewal of the Special Rate and Charge Scheme for the Fitzroy Street and Environs business precinct (**Attachment 1**).
- 3.2 Having otherwise considered all relevant matters, commences the statutory process under the Local Government Act 1989 (The Act) to renew a Special Rate and Charge Scheme to and for the properties within the defined Fitzroy Street and Environs Business Precinct, such Special Rate and Charge Combined Scheme is to raise a maximum amount of \$216,700 per annum up to a maximum of \$1,083,500 in total for a period of five years, commencing on 1 July 2019 and ending on 30 June 2024.
- 3.3 In accordance with Section 163(1A) and 163B(3) of the Act, directs that public notices be published in The Port Phillip Leader of the intention of Council to declare at an ordinary meeting of Council to be held in April 2019 (further details of which may be accessed by visiting Council's website [www.portphillip.vic.gov.au](http://www.portphillip.vic.gov.au) on or shortly after 1 January 2019, when details of the dates which have been resolved upon by Council for the holding of its ordinary meetings for 2019 will have become publicly available), in accordance with the proposed declaration of Special Rate and Charge Scheme in the form of the attachment to this resolution (**Attachment 2**) (Proposed Declaration of Special Rate and Charge Scheme) such Special Rate and Charge Combined levy to be for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Fitzroy Street Business Association and funds, administratively only and subject always to the approval, direction and control of Council, are to be used for the purposes of the appointment of a coordinator, promotional, advertising, marketing and business development, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Fitzroy Street and Environs Business Precinct.
- 3.4 Directs that in accordance with section 163 (1C) of the Act, separate letters enclosing a copy of the public notice be sent to the owners and the occupiers of the properties referred to in the Proposed Declaration attached, forming a part of the Proposed Declaration of Special Rate and Charge Combined Scheme advising of the intention of Council to declare the Special Rate and Charge Combined Scheme at the ordinary meeting of Council to be held in April 2019 (further details of which may be accessed by visiting Council's website [www.portphillip.vic.gov.au](http://www.portphillip.vic.gov.au) on or shortly after 1 January 2019, when details of the dates which have been resolved upon by Council for the holding of its ordinary meetings for 2019 will have become publicly available), 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 Combined levy) will be liable, the basis of the calculation and distribution of the Scheme and notifying such persons that submissions and/or objections in writing in relation to the Proposed Declaration of Special Rate and Charge Scheme will be considered and/or taken into account by Council in accordance with sections 163A, 163B and 223 of the Act.
- 3.5 Advises the Fitzroy Street Business Association of the matters specified in paragraphs 3.2, 3.3 and 3.4 of this resolution.



- 3.6 Authorises the Chief Executive Officer or delegate –
- (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 the Business Association to formalise the administrative operations of the Special Rate and Charge Scheme, such agreement being to ensure that at all times, and as a precondition to the payment of any funds by Council to the Business Association, Council is, and remains, legally responsible for approving, directing and controlling the expenditure of the proceeds of the Scheme in accordance with its obligations under the Local Government Act 1989 to do so.
- 3.7 Directs that the agreement specified in paragraph 3.6(b) of this resolution will be approved by the authorised officers of Council once the Special Rate and Charge Combined Scheme is declared.

#### 4. KEY POINTS/ISSUES

- 4.1 The City of Port Phillip currently has three Special Rate schemes in operation – Port Melbourne, Acland Street Village and Fitzroy Street. All Port Phillip schemes incorporate the collection of a levy from commercial properties within a defined geographic area for the sole purpose of marketing, promotion and business development of the specified Activity Centre. All funds collected are distributed to the incorporated Business Association under a funding agreement with Council.
- 4.2 The Special Rate and Charge Combined schemes are based on geographic criteria, having regard to the location and the net annual value (NAV) of those rateable properties in the Business Precinct that are used, or reasonably capable of being used, for commercial, retail, entertainment, tourism or professional purposes
- 4.3 The Fitzroy Street and Environs Special Rate and Charge Scheme was first declared in 2006 and renewed in 2011 and 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 equated to \$197,000 per annum.
- 4.5 The Fitzroy Street Business Association formally requested Council on 1<sup>st</sup> May 2018 to commence the statutory process to renew the scheme. (**Attachment 1**).
- 4.6 The new 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 with the Association executive and the foreshore properties including 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 **Attachment 3**.

- 4.7 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 scheme (2019- 2024) are:
- 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
  - 1 St Kilda Road
- 4.8 In order to distribute the scheme evenly across the commercial properties within the scheme boundary the scheme is keeping the current four benefit levels – primary, secondary, tertiary and quarternary. With the reduction in properties across this new proposed scheme and the 10% proposed increase in revenue, the Association has chosen to increase the minimums and maximums across the four benefit levels in order to distribute the increase evenly across the properties. See **Attachment 4** Fitzroy Street & Environs Intention to Declare Public Notice for the breakdowns of the benefit levels and boundary addresses.
- 4.9 If Council approve to commence the Intention to Declare Statutory Process on 17 October 2018, the Statutory Process will commence on Tuesday 23 October 2018 and close on at 5pm on Thursday 22 November 2018
- 4.10 If redevelopments occur within the proposed boundary, those properties that are already levied will be adjusted, any new eligible properties that have not previously been levied will not be added to the Scheme. 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 changed the property's Land Classification Code.
- 4.11 FSBA have proposed to increase the maximum levy revenue raised by 10% over the previous scheme from \$985,000 to \$1083,500 over the five year period. To date Officers have not received any objections to the proposed increase.
- 4.12 FSBA is currently developing their Business Plan for the proposed renewed 2019 – 2024 Scheme. It is expected that this will be finalised for the implementation of the new Scheme and will form part of the new funding agreement with Council.
- 4.13 The Special Rate and Charge Scheme submissions and objections will be presented to Council for consideration in February 2019 once the Council meeting schedule has been confirmed for 2019.
- 4.14 Local Government Act 1989 states 163(B)6 *A Council cannot make a declaration if the Council receives objections from persons who will be required to pay the special rate in respect of a majority of the rateable properties (51%) in respect of which the special rate would be imposed.* If Council receives majority eligible



objections – Council will not be able to proceed with the rate and the Association(s) will then be unfunded.

- 4.15 Events and activities that have been delivered by the Special Rate scheme include:
- 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.
  - Travel Writers Lunch – each year over 20 revered 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. Invites are always in demand.
  - Fitzroy Street Local Love Campaign – reengaging with 15,000 St Kilda locals, seeking their feedback and social media engagement to encourage them to 'revisit' Fitzroy Street.

## 5. CONSULTATION AND STAKEHOLDERS

- 5.1 The Fitzroy Street Business Association has formally requested Council to commence the renewal processes to renew their Special Rate and Charge Scheme for 2019 – 2024.
- 5.2 If Council determines to commence the statutory renewal process, all affected property and business owners will be informed of the Intention to Declare and are given the opportunity to submit written objections or submissions to Council for consideration. This process is open for a minimum of 30 days from the publishing of the Public Notice of Intention to Declare which follows directly after the Intention to Declare report to Council

## 6. LEGAL AND RISK IMPLICATIONS

- 6.1 Council is unable to declare a special rate if eligible objections are received from a majority of the properties affected (51%). If this occurs Council can either restart the renewal process or abandon the Special Rate which will leave the Association (s) unfunded.
- 6.2 The Business Association must be an incorporated entity through the life of the scheme and must act in accordance with the Associations Incorporation Reform Act 2012.

## 7. FINANCIAL IMPACT

- 7.1 If the scheme is declared the Association will enter into a formal funding agreement with Council for the duration of the Scheme.

The funds must be used solely for the purpose of marketing, promotion and business development of the Fitzroy Street and Environs precinct as governed by the funding agreement.



- 7.2 The FSBA is required to comply with the required financial reporting documentation biannually (profit and loss, balance sheet and marketing activity report). Scheme monies will not be paid to the Association until all reporting is received and accepted by Council.
- 7.3 The FSBA being required to develop and adopt a five-year Business Plan to guide expenditure of the Special Rate funds. Council is involved in the development of this plan and endorses the final draft.
- 7.4 The role of the FSBA is to expend the monies raised by the scheme on behalf of Council. It does this in the role of an administrator of the funds and is, at all times, bound by the funding agreement with Council which outlines the exact purpose for expenditure of the funds and the criteria that the funds must be spend under. Though the Special Rate is not Council funds, Council is responsible for the appropriate expenditure of these funds. Section 154 of the Local Government Act enables Council to discontinue the Scheme if there is any inappropriate expenditure.
- 7.5 Once the Scheme has been successfully renewed the Business Association will be able to continue delivering their precinct marketing and promotional activities in line with their adopted and Council endorsed business plans that relate to the expenditure of the Special Rate funding.

## **8. ENVIRONMENTAL IMPACT**

- 8.1 A funded and active Business Association can provide the connection to disseminate sustainability initiatives to local businesses. The Association can promote sustainable practices to their traders to make businesses more environmentally sustainable and in turn more profitable.

## **9. COMMUNITY IMPACT**

- 9.1 The FSBA through the Special Rate funding have supported their local community and worked with social and community organisations to strengthen the bond between the community and their local activity centre. They have provided funding, promotion and support for local schools, St Kilda Mums, Sacred Heart Mission etc. They have run local community connection campaigns such as the Fitzroy Street Local Love campaign which connected the precinct with its local community. They have also actively engaged with the PRIDE centre in order to bring change to the precinct.

## **10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 10.1 Special Rates align with Strategic Direction 5 – We thrive by harnessing creativity. Special Rates are embedded in the Art and Soul Strategy as being a mechanism to foster community led activities via community funding to enhance economic growth and vibrancy within activity centres.





## 11. IMPLEMENTATION STRATEGY

### 11.1 TIMELINE

- 11.1.1 If Council agrees to support the renewal of the Fitzroy Street and Environs Special Rate and Charge renewal, the statutory renewal process will commence on Tuesday 23 October and close at 5pm on Thursday 22<sup>nd</sup> November 2019.
- 11.1.2 On 18 October 2019 FSBA will be notified in writing that the Statutory Process has been approved and will commence and will be requested to support the statutory process.
- 11.1.3 The Public Notice will appear in the Leader Newspaper on Tuesday 23 October notifying affected properties that the Statutory process has commenced.
- 11.1.4 Letters will be sent to all affected properties of the Intention to Declare statutory process within three days of the date the Public Notice is published.
- 11.1.5 Officers will accept, review for eligibility and table all submissions and objections received during the statutory process.
- 11.1.6 Officers will inform, in writing, those who have provided submissions and objections and invite them to speak to their submissions at a Council Meeting to be scheduled in February 2019 where submissions and objections will be heard and considered.
- 11.1.7 Councillors will hear and consider all submissions and objections received during the statutory process at a Council meeting in February 2019. The date will be determined when the 2019 Council Meetings schedule is released.

### 11.2 COMMUNICATION

- 11.2.1 After the Council meeting on 17 October 2018, if Council consents to commence the Statutory Process, in accordance with Section 163(1A) and 163B(3) of the Local Government Act 1989, Council will give public notice in the Leader Newspaper of the proposed Intention to Declare the Schemes and within three days of the public notice being advertised will write to all affected property and business owners regarding the commencement of the Statutory Process including the rights of a person to make a submission or objection
- 11.2.2 If Council agrees to support the renewal of the Fitzroy Street and Environs Special Rate and Charge renewal, the statutory renewal process will commence on Tuesday 23 October and close at 5pm on Thursday 22<sup>nd</sup> November 2019.

# ORDINARY MEETING OF COUNCIL 17 OCTOBER 2018



- 11.2.3 On 18 October 2019 FSBA will be notified in writing that the Statutory Process has been approved and will commence and will be requested to support the statutory process.
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- 11.2.8 Councillors will hear and consider all submissions and objections received during the statutory process at a Council meeting in February 2019. The date will be determined when the 2019 Council Meetings schedule is released.

## 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 and Environs Special Rate and Charge Intention to Declare Public Notice 2019-2024
2. Fitzroy Street Business Association Letter to Commence Statutory Renewal Process Special Rate and Charge 2019-2024
3. Fitzroy Street and Environs Proposed Declaration Special Rate and Charge 2019-2024
4. Fitzroy Street and Environs Proposed Special Rate and Charge Boundary Map 2019-2024