



13. ARTS, CULTURE & ECONOMIC DEVELOPMENT

13.1 ACLAND STREET VILLAGE SPECIAL RATE AND CHARGE SCHEME 2019-2024. CONSIDERATION OF SUBMISSIONS AND OBJECTIONS AND DECLARATION OF SCHEME

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

PREPARED BY: DAVID POWER, COORDINATOR ECONOMIC DEVELOPMENT

1. PURPOSE

- 1.1 To consider the submissions received by Council under section 163A and 223 of the *Local Government Act 1989* (ACT) and take account of the objections lodged with Council under section 163B of the Act in relation to the proposed renewal of the Acland Street Village Special Rate and Charge Scheme 2019-2024 and to make a decision in relation to declaring 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 9 April 2018, the Acland Street Village Business Association (ASVBA) wrote to Council to request the commencement of the Intention to Declare statutory process to renew the Acland Street Village Special Rate and Charge Scheme 2019-2024 (Attachment 1).
- 2.3 The current Acland Street Village Special Rate and Charge Scheme (2014-2019) has 279 properties within the Scheme boundary. The current Scheme levies a maximum amount of \$975,000 over the five years, which equates to \$195,000 per annum.
- 2.4 The newly proposed Acland Street Village Special Rate and Charge Scheme (2019-2024) has 279 properties within the proposed Scheme boundary. There is no change to the total amount to be levied under the Scheme, with the newly proposed Scheme also raising a maximum amount of \$975,000 over the five years of the Scheme, which equates to \$195,000 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 current four benefit levels – primary, secondary, tertiary and quaternary. **See Attachment 3** – Acland Street Village 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 Acland Street Village 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 Acland Street Village 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 5 submissions in support of the Scheme, and 7 submissions seeking a revision or exemption of the property from the Scheme (which Council officers have also categorised as objections to the Scheme). Additionally, Council received a further 3 objections to the Scheme (including 1 late objection). The total number of objections received is therefore 10 objections. No persons requested to speak in support of their written submissions or objections at the time of writing of this support.

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 declare the Acland Street Village 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 Acland Street Village as detailed in the attached Declaration of Special Rate and Charge (refer **Attachment 5**).
- 3.2 Authorises the Acland Street Village 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, or 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 3.58%) 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 paragraph 3.1 3.2 and 3.3 of this resolution 11 of this report.
- 3.7 Notes the properties that are included in the Special Rate and Charge Scheme area will be subject to general re-valuations 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 9 April 2018, the ASVBA wrote to Council to request the commencement of the Intention to Declare statutory process to renew the Acland Street Village Special Rate and Charge Scheme (2019-2024) (**Attachment 1**).
- 4.3 The Scheme was first declared in 1998, and renewed in 2003, 2009 and 2014.
- 4.4 The current Acland Street Village Special Rate and Charge Scheme has 279 properties within the Scheme boundary. The current Scheme levies a maximum amount of \$975,000 over the five years, which equates to \$195,000 per annum.
- 4.5 The newly proposed Acland Street Village Special Rate and Charge Scheme (2019-2024) has 279 properties within the proposed Scheme boundary. There is no change to the total amount to be levied under the Scheme, with the newly proposed Scheme also raising a maximum amount of \$975,000 over the five years of the Scheme, which equates to \$195,000 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):
- 46 – 170 (inclusive) and 65 – 193 (inclusive) Acland Street;
 - 136 – 218 (inclusive) and 167 – 231A (inclusive) Barkly Street;
 - 1 – 9 (inclusive) and 2 – 26 (inclusive) Belford Street;
 - 22 and 25 – 49 (inclusive) Blessington Street;
 - 7 – 31 (inclusive) and 2 – 32 (inclusive) Carlisle Street;
 - 1 – 21 (inclusive) and 2 – 10 (inclusive) Irwell Street;
 - 30 – 40 (inclusive) Jacka Boulevard;
 - 14 – 18 (inclusive) Lower Esplanade;
 - 42B and D Marine Parade;
 - 1 – 7 (odd and even inclusive) Shakespeare Grove; and
 - 16 – 32 (inclusive) The Esplanade.
- 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. See **Attachment 3** – Acland Street Village 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 ASVBA 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.
- 4.10 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 ASVBA would 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.
- 4.11 At its ordinary meeting on 17 October 2018, Council resolved to commence the statutory process to renew the Acland Street Village Special Rate and Charge Scheme for 2019-2024.
- 4.12 In accordance with the 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.
- 4.13 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 Acland Street Village 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.
- 4.14 Events and activities that have been delivered in the past by the Special Rate and Charge Scheme include:
- 4.14.1 Father's Day Car Show – In its fourth year 25,000 people visited Acland Street and enjoyed this event in 2017.
 - 4.14.2 Vintage Postcards and Village Map – A vintage series that has become a collector's item for many visitors and locals over the past eight years. Over 100,000 have been given away.
 - 4.14.3 A Million Brilliant Reasons Marketing Campaign – TV campaign and accompanying brochures and social media to attract visitors and locals back to St Kilda.



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 Acland Street Village Special Rate and Charge Scheme for 2019-2024, the commencement of the statutory process (including providing those persons with 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 5 submissions in support of the Scheme. Council also received a further 7 submissions seeking a revision or exemption of the property from the Scheme (being 4 submissions on behalf of 7 properties included in the Scheme). Given the nature of these submissions, Council officers have categorised these 7 submissions seeking a revision or exemption to also be objections to the Scheme. Additionally, Council received a further 3 objections to the Scheme (including 1 late objection after the period had closed). The total number of objections received is therefore 10 objections. Having regard to the 279 properties included within the proposed Scheme, Council officers consider that a total of 10 objections received (including the late objection) comprising an objection percentage of 3.58% 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 this report being prepared.
- 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 on-going basis with the ASVBA.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The risks associated with the proposal are limited by the following:
- 6.1.1 The ASVBA 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 ASVBA until all reporting is received and accepted by Council.
- 6.1.2 The ASVBA 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 ASVBA is required to develop and adopt its five-year Business Plan to guide the expenditure of the funds.

6.1.4 The ASVBA 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 Acland Street Village 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 Acland Street Village 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 ASVBA 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 ASVBA 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 ASVBA has provided funding, promotion and support for local schools, St Kilda Mums, Sacred Heart Mission etc.



ORDINARY MEETING OF COUNCIL 20 FEBRUARY 2019

- 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 Council with information concerning the declaration of a new five-year Special Rate and Charge Scheme (2019-2024) for the Acland Street Village 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 all owners and occupiers of properties included in the scheme and all persons who have lodged a submission and/or objection in writing of Council's decision to declare and levy the Special Rate and Charge commencing on 11 July 2019, and the reasons for this decision.
- 11.1.2 Council advises the Acland Street Village Business Association of the Council's decision.
- 11.1.3 28 February 2019 to 28 April 2019 – Statutory opportunity for lodging appeals with VCAT under section 185 of the Act (Note: Appeals must be lodged with VCAT in accordance with section 185 within 3 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 Acland Street Village 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 submissions and/or objection of the decision regarding the renewal of the Acland Street Village Special Rate and Charge Scheme (including the reasons for the decision) on 28 February 2019.
- 11.2.2 Council advises the Acland Street Village Business Association of Council's decision regarding the Acland Street Village Special Rate and Charge Scheme.
- 11.2.3 All affected property and business owners receive their yearly rates notice which outlines their levy payment.



ORDINARY MEETING OF COUNCIL 20 FEBRUARY 2019

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: 11/01/194

ATTACHMENTS

1. Acland Street Village Request to Renew Special Rate Letter 2019-2024
2. Acland Street Village Special Rate and Charge Boundary 2019-2024
3. Acland Street Special Rate Renewal Public Notice
4. Acland Street Submissions and Objections Table
5. Declaration of Special Rate and Charge for Acland Street Precinct 2019-2024