



**12.2 FITZROY STREET SPECIAL RATE AND CHARGE RENEWAL
– 2024-2029 INTENTION TO DECLARE**

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

**PREPARED BY: SUSIE FILLETI, BUSINESS ENGAGEMENT COORDINATOR
LAUREN BIALKOWER, EXECUTIVE MANAGER CITY GROWTH AND CULTURE**

1. PURPOSE

- 1.1 To commence the statutory process to renew the Fitzroy Street Special Rate and Charge, for the 1 July 2024 to 30 June 2029 period, for the purpose of marketing, tourism, promotion, business development and centre management of the Fitzroy Street business precinct.

2. EXECUTIVE SUMMARY

- 2.1 The City of Port Phillip currently has four special rate and charge schemes in operation – Fitzroy Street, Port Melbourne, Acland Street Village and Carlisle Street. All Port Phillip special rate and charge schemes incorporate the collection of a levy from commercial properties within a defined geographic area for the sole purpose of marketing, promotion, business development and centre management of the specified Activity Centre. All funds collected are distributed to the incorporated Business Association under a funding agreement with Council.
- 2.2 Special rate and charge declarations are a statutory process governed by Part 8 of the *Local Government Act 1989*. Despite the enactment of the *Local Government Act 2020*, the special rates and charges provisions of the 1989 legislation are still in force. In declaring a special rate and charge, Council must be satisfied that:
- 2.2.1 the proposal relates to the performance of a function authorised under Section 163 of the Act;
- 2.2.2 there will be a special benefit to those persons liable to pay the special rate or special charge; and
- 2.2.3 there is a reasonable distribution of the rate amongst those persons liable to pay the special rate or special charge.
- 2.3 On 1 September 2023, Council received a letter from Fitzroy Street Business Association (**FSBA**) requesting that Council begin the statutory process to renew the Fitzroy Street Special Rate and Charge for five years, from 1 July 2024 to 30 June 2029 (**Attachment 1**).
- 2.4 In September and October 2023, FSBA contacted all open businesses in the precinct (219 businesses) and undertook a business poll to gauge support for renewing the Special Rate. The FSBA received signed support from 116 out of the 217 properties currently occupied, open and available for comment for the Special Rate, which represented 65 percent.



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 (**Scheme**) for the Fitzroy Street Business Precinct (**Precinct**) (**Attachment 1**).
- 3.2 Having otherwise considered all relevant matters, commences the statutory process under the *Local Government Act 1989* (**Act**) to renew the Scheme to and for the properties within the Precinct, to raise a maximum amount of up to \$200,000 per annum for a total of up to \$1,000,000 for a period of five years, commencing on 1 July 2024 and ending on 30 June 2029.
- 3.3 In accordance with Section 163(1A) and 163B(3) of the Act and the Proposed Declaration of a Special Rate and Charge (**Attachment 2**), directs that a Public Notice (**Attachment 3**) be published in The Age and Council's internet website of the intention of Council to declare, if it is approved at the ordinary meeting of Council on 15 November 2023. The Proposed Declaration of a Special Rate and Charge provides that a special rate and special charge will be used for the purposes of defraying expenses to be incurred by Council for the purposes advertising, marketing, business development and centre management, all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Precinct. The Proposed Declaration also states that funds will be provided to the incorporated body known and operating as the FSBA to be used solely for the above purposes, subject always to the approval, direction and control of Council.
- 3.4 In accordance with section 163(1C) of the Act, send individual letters to all affected property owners and occupiers within the proposed Fitzroy Street precinct boundary (**Attachment 4**), advising of the Intention to Declare the Special Rate and Charge, the commencement of the statutory process including a copy of the Public Notice (**Attachment 3**) and an estimation of the special rate or special charge payable, based on 2023 Net Annual Value (**NAV**) valuations that would be applied to the property.
- 3.5 Advises the FSBA of the matters specified in paragraphs 3.2, 3.3 and 3.4 of this resolution.
- 3.6 Authorises the Chief Executive Officer, or their delegate to –
 - (a) Make any minor amendments to the Public Notice (**Attachment 3**) that do not change the material intent of the that Public Notice to ensure legislative compliance;
 - (b) 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
 - (c) prepare a funding agreement between Council and the FSBA to formalise the administrative operations of the Special Rate and Charge, such agreement to ensure that at all times, and as a precondition to the payment of any funds by Council to the FSBA, 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 this resolution will be approved by the authorised officers of Council once the Scheme is declared.



4. KEY POINTS/ISSUES

- 4.1 The City of Port Phillip currently has four special rate and charge schemes in operation – Fitzroy Street, Port Melbourne, Acland Street Village and Carlisle Street. All Port Phillip special rate and charge schemes incorporate the collection of a levy from commercial properties within a defined geographic area for the sole purpose of marketing, promotion, business development and centre management of the specified activity centre. All funds collected are distributed to the incorporated business association under a funding agreement with Council.
- 4.2 Special rate and charge scheme declarations are a statutory process governed by Part 8 of the *Local Government Act 1989*. Despite the enactment of the *Local Government Act 2020*, the special rate and charge provisions of the 1989 legislation are still in force. In declaring a special rate and charge scheme, Council must be satisfied that:
- 4.2.1 the proposal relates to the performance of a function authorised under Section 163 of the Act;
- 4.2.2 there will be a special benefit to those persons liable to pay the special rate or special charge; and
- 4.2.3 there is a reasonable distribution of the rate amongst those persons liable to pay the special rate or special charge.
- 4.3 Council's Rates team collects the special rate and charge through the normal rating process, whilst compliance and reporting are managed by Economic Development. All funds collected are distributed to the relevant incorporated Business Association under a funding agreement with Council.
- 4.4 On 1 September 2023, Council received a letter from Fitzroy Street Business Association (**FSBA**) requesting that Council begin the statutory process to renew the Fitzroy Street Special Rate and Charge Scheme (**Scheme**) for five years, from 1 July 2024 to 30 June 2029. (**Attachment 1**).
- 4.5 The current Scheme (2019 – 2024) has 217 properties within the Fitzroy Street precinct boundary (**Attachment 4**). The current Scheme levies a maximum amount of \$1,000,000 over the five years which equated to up to \$200,000 per annum.
- 4.6 In September and October 2023, FSBA contacted all open businesses in the precinct (219 businesses) and undertook a business poll to gauge support for renewing the Scheme. The FSBA received signed support from 116 out of the 217 properties currently occupied, open and available for comment for the Scheme, which represented 65 percent.
- 4.7 If redevelopments occur within the proposed Scheme boundary any new eligible properties that have not previously been levied will 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 takes effect.
- 4.8 Properties exempt from paying the special rate and charge include:
- all residential properties; and
 - non rateable properties.
- 4.9 To distribute the special rate and charge across the commercial properties within the Fitzroy Street precinct boundary the current four benefit areas will remain – primary, secondary, tertiary and quaternary. Details of the benefit areas and Scheme boundary



are specified in the Proposed Declaration of a Special Rate and Charge (**Attachment 2**).

- 4.10 Properties that are used, or reasonably capable of being used, for retail, commercial, leisure, tourism, entertainment, light industrial or professional purposes that fall into the below address ranges are included proposed Scheme boundary:
- 2 – 6 Acland Street (inclusive);
 - 11 and 12 The Esplanade;
 - 1 – 203 Fitzroy Street and 8 – 64 Fitzroy Street (inclusive);
 - 9 – 19 Grey Street and 4 – 24 Grey Street (inclusive);
 - 1 George Lane;
 - 1 St Kilda Road; and
 - In the opinion of Council receive a special benefit from the Special Rate and Charge.
- 4.11 The rates in the dollar applicable to each benefit area for the purposes of assessing and levying the special rate and charge will be determined having regard to the Net Annual Value (**NAV**) of all properties within each benefit area at the beginning of each financial year to raise a total of up to \$200,000 per annum.
- 4.12 As FY2024-2025 NAV valuations are not yet available at the time of this Report, the below shows rates in the dollar, based on the 2023-2024 NAV valuations, that would have been applied to collect the special rates and charges totalling up to \$200,000 per annum:
- Primary benefit rate – 0.01129
 - Secondary benefit rate – 0.00883
 - Tertiary benefit rate – 0.00652
 - Quaternary benefit rate – 0.00490
- 4.13 The actual special rates to be applied in 2024-2025, and in each subsequent year of the Special Rate Period, will be determined having regard to reassessed NAV figures prepared annually by Valuer-General Victoria.
- 4.14 In addition to the rate in the dollar being adjusted each financial year, maximum and minimum special charges will also apply. For the 2024-25 rating year, the following maximum and minimum special charges will apply:
- Primary benefit rate – maximum charge of \$3,260 and a minimum charge of \$878 per year.
 - Secondary benefit rate – maximum \$2,712 and a minimum charge of \$691 per year.
 - Tertiary benefit rate – maximum charge of \$2,173 and a minimum charge of \$523 per year.
 - Quaternary benefit rate – maximum charge of \$1,686 and a minimum charge of \$452 per year.
- 4.15 The maximum and minimum special charges will be adjusted at the beginning of each financial year during the operation of the Scheme, having regard to:



- any change to the special rate in each of the benefit areas (which, as above, will be determined having regard to the movement of NAV to ensure that \$200,000 will be collected in that year);
 - the inclusion or removal of any properties from the Scheme; and
 - any change in the number of properties that will pay a special charge (as opposed to a special rate), having regard to the changed special rates in each benefit area, as above.
- 4.16 Council will provide FSBA with the collected levy every six months, on receipt of an accepted Activity Report and valid tax invoice. Prior to FSBA issuing a valid tax invoice, Council will confirm the total levy collected for the six-month period, which will be no more than \$100,000 to include on the tax invoice. Should the collected levy be less than the expected levy, Council will not supplement payments to cover the balance; Council will only issue funds received.
- 4.17 FSBA is currently developing their Business Plan for the proposed 2024 – 2029 Scheme. It is expected that this will be finalised before the implementation of the new Scheme and will form part of the new funding agreement between FSBA and Council.
- 4.18 Funds raised by the Scheme will be for the sole purpose of marketing, promotion, business development and centre management of the Precinct. It is considered that the value of the properties included in the Scheme area, their desirability as a letting proposition and their general amenity could be enhanced by the activities generated from the Scheme funds.
- 4.19 Any submissions and objections in relation to the Scheme will be presented to Council for consideration in February 2024 once the 2024 Council meeting schedule has been confirmed.
- 4.20 Section 163B(6) of the Act states that Council cannot make a declaration of a special rate and charge if it receives objections from a majority of the rateable properties in respect of which the special rate and charge would be imposed (that being greater than 50 percent).
- 4.21 Council must consider all submissions and objections received in relation to the Scheme in accordance with the Act prior to making a decision regarding the declaration of the proposed Scheme.

Key Information

- 4.22 The Fitzroy Street Special Rate and Charge scheme was first declared in 2006 and was renewed in 2011, 2014 and 2019.
- 4.23 The FSBA is successfully engaged with its traders and local community. Recent initiatives and achievements include:
- In partnership with Council, funded Renew Fitzroy Street for three consecutive years to address high commercial vacancies in the precinct.
 - Engaged Hoyne to deliver the High Street Renewal Project that identified the ideal tenant mix and appointed a precinct leasing agent to better influence the retail mix.
 - Developed and implemented a 12-month calendar of events and campaigns to attract visitation to the Fitzroy Street precinct.



- Partnered with events, such as St Kilda Blues Festival, St Kilda Festival and Midsumma Festival, to develop leveraging opportunities for businesses in the Fitzroy Street precinct.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Council has worked closely with FSBA throughout the pre-intention to declare stage of this proposed Scheme.
- 5.2 Council is bound by the statutory process and cannot promote the benefits or achievements of the Scheme to those affected by it. The FSBA is responsible for securing support for the Scheme and communicating its benefits to the property and business owners.
- 5.3 Council, through the Economic Development team, will communicate the statutory process to those affected property and business owners through the stages dictated by the Act.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The risks associated with the proposal are limited by the following:
 - 6.1.1 If the Scheme is declared FSBA will enter into a formal funding agreement with Council for the duration of the Scheme which outlines the specific purposes for which the funds can be spent.
 - 6.1.2 Under the terms of the proposed funding agreement, FSBA:
 - 6.1.2.1 will be required to submit an Activity Report that includes financial reporting documentation every six months (profit and loss, balance sheet, general ledger, and marketing activity report). Scheme monies will not be paid to the Association until all reporting is received and approved.
 - 6.1.2.2 must be an incorporated entity through the life of Scheme and must act in accordance with the *Associations Incorporation Reform Act 2012*.
 - 6.1.2.3 will be required to adopt their five-year Business Plan to guide expenditure of the funds.
 - 6.1.3 FSBA will expend the monies raised by the Scheme on behalf of Council as an administrator of the funds and at all times bound by the funding agreement with Council and under the direction of Council, and Council will reserve solely all discretions relevant to the application of the proceeds of the Scheme. Section 164 of the Act enables Council to discontinue the Scheme if there is any inappropriate expenditure.
 - 6.1.4 If Council does not wish to support the Fitzroy Street Special Rate and Charge, there may be an expectation from the commercial precinct that Council will fund marketing and promotion activities for the precinct.

7. FINANCIAL IMPACT

- 7.1 Council incurs administrative costs for the renewal of the Scheme. These have been included in the FY2023/2024 budget.
- 7.2 Council administers the collection of the funds for the life of the Scheme and distributes the Scheme funds to FSBA in two half-yearly instalments after they submit an Activity Report.



8. ENVIRONMENTAL IMPACT

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

9. COMMUNITY IMPACT

- 9.1 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.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 *Inclusive* Strategic Direction - A City that is a place for all members of our community, where people feel supported and comfortable being themselves and expressing their identities:
 - A successful business/retail precinct provides a multitude of services to the community ensuring all have access to health and wellbeing services and facilities. A community that is connected is a healthy community and business precincts provide these connectivity opportunities.
- 10.2 *Liveable* Strategic Direction - A City that is a great place to live, where our community has access to high quality public spaces, development and growth are well-managed, and it is safer and easy to connect and travel within:
 - Successful business/retail precincts underpin the liveability of a high-density city, like Port Phillip and are pivotal in creating a city of diverse and distinctive neighbourhoods and public spaces.
- 10.3 *Sustainable* Strategic Direction - A City that has a sustainable future, where our environmentally aware and active community benefits from living in a bayside city that is greener, cooler, cleaner and climate resilient:
 - There is opportunity for Council to work with Business Associations to educate and examine ways to 'green' businesses including waste reduction, energy usage, sustainable design, and use of sustainable transport.
- 10.4 *Vibrant* Strategic Direction - A City that has a flourishing economy, where our community and local businesses thrive, and we maintain and enhance our reputation as one of Melbourne's cultural and creative hubs:
 - Special Rate funds empower the business community to actively and creatively market, promote and develop their precinct to maintain vibrancy and economic viability and to provide the community with a well-resourced business precinct that provides excellent services, gathering places and employment.
- 10.5 *Well-Governed* Strategic Direction - A City that is a leading local government authority, where our community and our organisation are in a better place as a result of our collective efforts:
 - Business Associations enable Council to efficiently understand business precinct needs and work with Associations in a collaborative way for the benefit of the community.



11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

If Council resolves to commence the statutory process:

- Council gives rate payers notice by the nominated postal address and the street address in the designated Scheme area of the proposed renewal of the Scheme, the statutory process and their estimated levy amounts from 20 November 2023.
- Public notice published in The Age on 20 November 2023 and displayed on the City of Port Phillip website.
- The *Local Government Act 1989* states that proposed declaration must be available for public inspection, consideration and submissions for at least 28 days after the publication of the notice, and that any objections must be received within 28 days of the public notice, therefore it is recommended to conclude the objection and submission process at 5pm on 18 December 2023.
- Council officers review and collate submissions and objections in January 2024.
- Council considers submissions and objections at an Ordinary Council Meeting in February 2024.
- Council considers whether to declare (or not) the Scheme for 2024-2029 at an Ordinary Council Meeting in April 2024.
- Council gives rate payers notice by the nominated postal address and the street address in the designated Scheme area of the decision regarding the Scheme following the decision at an Ordinary Council Meeting in April 2024.
- If Council resolves to declare the proposed Scheme:
 - A person on whom a special rate or special charge is imposed then has 30 days from the date of issue of the Notice of the Special Rate and Charge to apply to VCAT for a review of a decision of Council to impose a special rate or special charge on that person, on limited grounds under section 185 of the Act.
 - Section 185AA of the Act provides a separate right to apply to VCAT for a declaration as to the validity of Council's decision. An application for a declaration can be made at any time.
 - If an application is lodged at VCAT, Council would consider whether to:
 - proceed with the implementation of any special rate and charge scheme; and
 - provide any monies raised to FSBA;until the application has been heard and there is a VCAT decision on the matter.
 - Council will advise the FSBA of its decision.
 - If no application is made to VCAT, Council will commence the Scheme on 1 July 2024.
 - Affected rate payers will receive their levy notification to make payment via their Council rates notice in September 2024.
- If Council resolves not to declare the proposed Scheme at its Ordinary Council Meeting in April 2024, Council will advise the FSBA and all affected rate payers in writing of this decision and the proposed Scheme will not proceed.

MEETING OF THE PORT PHILLIP CITY COUNCIL

15 NOVEMBER 2023



11.2 COMMUNICATION

11.2.1 Intention to Declare process:

- Council gives rate payers notice by the nominated postal address and the street address in the designated Scheme area of the proposed Scheme, the statutory process and their estimated levy amounts from 20 November 2023.
- Public notice published in The Age 20 November 2023 and displayed on the City of Port Phillip website.

11.2.2 Declaration:

- Council gives rate payers notice by the nominated postal address and the street address in the designated Scheme area of the decision regarding the declaration of the proposed Scheme following the decision at an Ordinary Council Meeting in April 2024.
- If Council resolves to declare the proposed Scheme at its Ordinary Council Meeting in April 2024, affected rate payers will receive their levy notification to make payment via their Council rates notice in September 2024.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. [Fitzroy Street Business Association Letter](#)
2. [Fitzroy Street Special Rate and Charge Proposed Declaration](#)
3. [Fitzroy Street Special Rate and Charge Public Notice](#)
4. [Proposed Fitzroy Street Precinct Boundary](#)