



Submission to the Review of the Victorian Local Government Act 1989

December 2015

1. Introduction

Mainstreet Australia is pleased to make a submission to the Victorian Government's Review of the Local Government Act 1989. We consider that this is a very important review and want to provide input based on our experience in working with the provisions relating to special rates and charges for over 20 years.

Mainstreet Australia is supportive of the Government's agenda to streamline the provisions of the Act and cut red tape. Our submission focuses on Sections 163-166 and 185. We examine constraints and issues with those sections and put forward recommendations to deal with them including a draft of a new section of the Act. We would like to have the opportunity to discuss our proposed changes further with the Review Advisory Committee and Local Government Victoria.

2. Our Charter and Approach

Mainstreet Australia is a highly respected and energetic incorporated association that works with a range of government, business and property interests to support and promote strip shopping/business centres as well as town centres across Australia. We consider that these centres are and should continue to be at the heart of our communities.

Our membership is united by a common vision that vibrant main streets and town centres are an integral component of the community delivering a complex and interrelated range of economic, cultural, social and environmental benefits.

Mainstreet Australia provides a raft of services to support its membership to positively contribute to the successful operation and revitalisation of main streets and town centres. This includes networking, education, mentoring and support, professional development, strategic advice and industry representation and advocacy.

An integral aspect of Mainstreet Australia's approach is to build on the uniqueness of the main street experience, develop the capacity of stakeholders to work together, establish partnerships among the many private and public stakeholders and develop sustainable models that engage and empower businesses to collectively work together to revitalise and maintain vibrant and successful main streets and town centres.

We have a strong belief that State and local governments, in partnership with business associations, local businesses property owners, developers and investors, play a vital role in facilitating the economic development of these places. We are and want to continue to be actively engaged in ensuring that the Victorian Government develops and supports policies and other actions to make these centres more productive and sustainable.

Mainstreet Australia has been working this year with the Victorian Treasurer and Minister for Small Business and their departments on the establishment of Business Improvement Districts (BIDs), as announced in the 2015 Budget. BIDs will deliver specific economic development programs in centres to create new jobs, encourage business growth and innovation, and attract new businesses. Our ongoing efforts are focused on improving the productivity of centres.

The Minister for Planning and his department also acknowledged the importance of BIDs on page 21 of the December 2015 report on Managing Growth Infrastructure for Melbourne's Outer Suburbs as part of Plan Melbourne Refresh, the revised metropolitan planning strategy.

In the same way, we would like to work with Local Government Victoria in facilitating improvements to the Local Government Act that will tie in with our work and the State Government's agenda on BIDs.

3. The Economic Value of Main Streets and Town Centres

The context for our submission is contained in the 2011 report on the economic value of main streets, prepared for Mainstreet Australia by the international consulting firm Essential Economics. We consider that this was an important piece of research highlighting the extent of business and property owner investment in main streets and town centres. The key conclusions were:

- *An estimated 680 Main Street activity centres are located across Victoria, with 211 centres identified as having greater than 5,000 square metres of retail floorspace. A total of approximately 5.3 million square metres of retail floorspace are estimated to be in Main Street centres in Victoria, representing approximately 45% of total retail floorspace in the State.*
- *Total employment generated by Main Street centres in Victoria is estimated at approximately 374,000 jobs or 13% of total employment in the Victorian economy. This employment generates approximately \$15,500 million in wages per annum.*
- *Main Streets are a key focus for business activity. The mix of land uses in Main Street centres is typically wider and more diverse than in other (hard top shopping) centres. Many Main Street centres have more than 50% of their leasable floorspace occupied by non-retail activities, reflecting the traditional mixed-use role of these centres*
- *Main Street centres have a high level of business diversity which is reflected in the share of businesses which are sole traders or independently operated.*
- *The importance of Main Street activity centres to the business sector in Victoria including new business development is recognised by a range of stakeholders. Major chains including Myer, JB Hi Fi, Grill'd and Spotlight commenced as single stores in Main Street centres in Victoria, while major*

retailers such as Coles and Woolworths have a high share of their stores in Main Street centres. Main Streets are also an important component of Victoria's tourist industry and are explicitly recognised in travel guides and tourist promotions for such features as shopping, dining and entertainment.

- *An important feature of Main Street activity centres is their level of integration with adjacent urban areas and the high degree of accessibility to the community.*
- *Main Street activity centres tend to be locations for a wide range of social infrastructure that leverage off the accessibility these locations provide to the surrounding community. This includes localised infrastructure such as schools and child care, as well as community services of metropolitan importance, including medical precincts and higher education.*
- *Main Streets are also an important source of community pride and identity, and this is recognised by the investment that local Councils provide to their activity centres. It is also evident in the way in which real estate agents spruik properties in proximity of Main Street centres.*
- *Main Street centres also have an important role in meeting the strategic land use objectives of State and Local Government.*
- *Creating successful Main Street centres requires recognition that a wide range of factors and influences determine centre performance. Main Street centres have a diverse range of stakeholders, often with conflicting interests, and this means that significant value can be captured through a process of centre management, marketing and community engagement which captured any issues quickly and effectively. This is a key reason behind the success and popularity of special rate and charge schemes where funds are available for a centre co-ordinator and for other initiatives to serve local businesses in the centre.*
- *A wide range of economic, social and environmental reasons explain why Main Street activity centres are important to the community. These benefits should be reflected in the objectives and actions of policy makers, and recognised by those engaged in the process of promoting vibrant and successful Main Street activity centres.*
- *Main Streets have a vital role to play in serving communities ranging from small local centres to much larger centres of metropolitan and state-wide importance. Importantly, they are a source of community identity.*

The final comment in the report is that *“the case for investing in and supporting Main Street activity centres is compelling for any stakeholder with an interest in contributing to Victoria's economic, social and environmental wellbeing”*.

4. Main Streets and the Local Government Act

The Victoria Local Government Act 1989 provides, through Sections 163 to 166, the legislative framework to raise funds for coordinated centre management, marketing and business development programs in main street

centres. Since 1992, many business associations in strip shopping centres and town centres have worked with local councils to utilise the provisions of the Act to establish special rate and charge programs for these purposes. Leadership from key councils such as Moonee Valley, Stonnington, Banyule, Boroondara, Darebin and Glen Eira (and their predecessors) resulted in more than 30 programs being established by the mid to late 1990s with most of those still in place 20 years later. Now, there are over 70 programs in metropolitan Melbourne and regional Victoria, raising over \$10 million each year. A comprehensive list of the current programs is included in the appendix to this submission.

As the Essential Economics Report has emphasised, “significant value can be captured in centres through a process of centre management, marketing and community engagement. This is a key reason behind the success and popularity of special rate and charge schemes where funds are available for a centre co-ordinator and for other initiatives to serve local businesses in the centre”.

The positive benefits of these programs have been demonstrated over the last 20 years. They include:

- Empowerment of local business communities
- Creation of new jobs
- Attraction of new businesses to fill gaps in centres
- Improvements in the capacity of existing businesses
- A better image and profile for many centres
- Improvements in the overall trading performance in centres

A coordinated program driven by business groups working in partnership with local councils and community groups has added real value to centres and driven economic improvements.

It is recognised by councils and business groups across Australia that Victoria has the best legislative framework to facilitate the establishment of centre management, business development and marketing programs of all states in Australia.

However, consultation with our members and other local councils has highlighted the need to improve and streamline the current provisions in the Act. There is less enthusiasm now among councils in both metropolitan Melbourne and Country Victoria to establish new main street special rate or charge programs. The process is perceived to be complex, lengthy and costly with both political risks and risks of division within a business community. To many, there does not appear to be strong State Government support for these programs. There also is a risk of a VCAT review about a council’s decision resulting in a long time period before a hearing is held, delaying

commencement of the scheme, and the costly process of preparing and presenting a case.

These concerns have prompted this submission to the Review. The following sections identify the deficiencies, obstacles and issues with the current Act and suggest measures to streamline and improve the process and outcomes.

5. Deficiencies and Obstacles with the Current Provisions in Sections 163 to 166 and in Section 185

We consider that there are a few key deficiencies, obstacles and issues with the current provisions in Sections 163 to 166 and in Section 185 of the Act:

- Lack of recognition in the Act of the distinct features of special rates and charges applying to centre management, marketing and business development programs
- Lack of clarity about the purposes of a main street special rate or charge
- The requirement for paying the special rate or charge resting primarily with business tenants in centres
- The unnecessary and costly process of notifying affected property owners and business operators through a public notice in a newspaper
- The limitations of specifying a time period for the life of the rate
- The unnecessary inclusion of the benefit ratio
- The submissions and objections process including the specific objection process for property occupants under section 163B(5)
- The cost and time involved in the review process to VCAT under section 185

5.1 Lack of Recognition

There is no specific recognition of main street special rates and charges for the purpose of centre management, marketing and business development in the current legislation. They are simply covered under the general provisions in Section 163(1) of the Act, in the same way that special rates apply to drainage or car parking schemes.

Similarly, in the Discussion Paper released in conjunction with the current Review, there is no acknowledgment of main street special rates and charges for the purpose of centre management, marketing and business development, nor canvassing of any issues associated with them. In fact, the Discussion Paper has a very brief discussion of special rates and the current review processes at VCAT, with only one specific reference to street construction schemes. This seems to us to disregard the ongoing economic value and importance of these schemes to business communities.

We consider that main street special rates and charges for the purpose of centre management, marketing and business development are different from the special rates and charges for infrastructure projects and should be recognised as distinctive programs through separate provisions in the Local Government Act.

In our view, the lack of legislative recognition reflects a further problem – the lack of Government interest in and support for main street programs. There is no State Government champion for these schemes even though State legislation facilitates their establishment and renewal.

Local Government Victoria (LGV), for example, provides very little specific information about or assistance for these types of centre management and marketing programs, apart from the Ministerial Guidelines introduced in September 2004. These Guidelines were prepared to assist councils with the new provisions of the Act enacted in 2003. These relate specifically to process issues – the details to be included in the declaration of a special rate or charge, the method of calculating the total and maximum amounts of the special rate or charge, the calculation of the benefit ratio, the notification process to persons required to pay the special rate or charge, and the condition that a council could not declare a special rate or charge if it received objections from a majority of affected ratepayers.

Unlike State agencies in other parts of the world, LGV does not provide handbooks or other information to assist or encourage councils or business groups to set up new programs or any advisory services to help these groups or other interested parties in the administration of current or new programs. In contrast, the Ontario Ministry of Municipal Affairs and Housing in Canada provides an excellent handbook about their main street centre programs – referred to as business improvement areas. More information about both the program and the handbook can be obtained at www.mah.gov.on.ca.

5.2 Lack of Clarity about the Purposes of a Main Street Scheme

Section 163(1) provides a very general provision about the purposes of a special rate or charge scheme. It states that the scheme can be for the purposes of “defraying any expenses or repaying any advance, debt or loan by a council in relation to the performance of a function or the exercise of a power of the Council if those activities are or will be of special benefit to the persons required to pay the special rate or charge”. Unlike similar schemes in other parts of the world, the Victorian legislation does not spell out in any detail the type of purposes or activities that can be undertaken in a main street or any other special rate program. In one sense, this has provided a lot of flexibility and the opportunity to pursue special rate and charge schemes for the purposes of centre management, marketing and business development. However, on the other, it has limited the scope of activity and created uncertainty and confusion about what can be funded, which is further inhibited by councils who are risk adverse and not keen to test the provisions.

Many main street special rate or charge schemes have as their purpose the “defraying of the expenses of advertising, promotion, centre management, business development and other incidental expenses associated with the encouragement of commerce” in a designated main street precinct. Some programs have included, under this umbrella, activities such as graffiti removal, security services, as well as banners on street poles, signage, seating and other street infrastructure, and undergrounding of overhead power lines.

There is currently a lack of clarity in the legislation about what is possible. This needs to be addressed so that the full range of possibilities can be encouraged.

5.3 Liability and Requirement for Paying the Special Rate or Charge

Section 163 of the Act refers to the persons liable or required to pay the special rate or charge. Under Section 155, it is clear that the owner of land is ultimately liable to pay the rates and charges on that land. However, in main street centres, the owners generally pass on rates and charges to their business tenants under their lease arrangements. The tenants, therefore, are required in most instances to pay all the rates and charges, including special rates and charges.

Businesses have raised the inequity of this situation with respect to main street special rates and charges in that both the owners and tenants receive a “special benefit”. However, the legislation recognises the benefit only to the property owner, yet, in most cases, the tenants pay. This is an obstacle in several areas (particularly centres looking at new schemes) to obtaining strong business support for these programs.

Decisions at VCAT frequently refer to the special benefit to landowners of increased property values and the improved ability of owners to lease a premise as a result of the increased economic activity generated by the special rate program. On the other hand, it is recognised that the business operator is also a key beneficiary of centre management, marketing and business development programs funded through the proceeds of these special rates and charges schemes in addition to the potential uplift in property values experienced by the property owner.

Given, from the previous discussion, that main street programs in future may involve infrastructure development and maintenance as well as marketing, business development and centre management, it is considered important to develop a mechanism in these programs for the requirement to pay a special rate or charge to be shared on a 50:50 basis between the landowner and the tenant.

5.4 Unnecessary and Costly Process of Notification

Section 163(IC) requires the public notice advising Council's intention to declare a special rate or charge to be published. This has meant publication of the notice in a local or metropolitan newspaper. From our experience, very few of the affected property owners or tenants rely on this public notice in the paper. More often than not, they simply refer to the notice that is included with the council letter advising them of the special rate or charge proposal.

In addition, councils receive conflicting legal advice about what a public notice in the newspaper must contain, with a tendency to include potentially more information than might be required to avoid any risks that it has not complied with the Act.

There also is the issue of cost. Given the amount of information required or assumed to necessary under the Act to be included, the cost of a notice in the paper can be over \$5,000. Banyule City Council recently spent \$6,000 for a public notice about a special charge scheme that was only going to raise \$50,000 in the first year. This is a waste of money.

With declining newspaper sales and readership as well as the dramatic increase in online and social media, a better alternative would be for the notice to be posted on a council's website together with the background information explaining the reasons for establishing the special rate or charge, in addition to advising property owners and occupiers in writing.

5.5 The Limitations of Specifying a Time Period

Section 163(3)(d) requires a council to specify in a declaration of a special rate or charge the period of time that it is to remain in force. This has been expressed, without exception, as a specific number of years with a start date and an end date.

This approach is appropriate when dealing with a special rate or charge related to a car parking, street construction or drainage scheme where there are fixed costs associated with a specific infrastructure project and an agreed time frame to meet those expenses.

Main street programs funded by special rates or charge schemes are different. They are designed to provide ongoing economic value and community benefits to a centre. Most are set up with the aim of continuing indefinitely. This is borne out by the fact that almost 50% of the current programs have been in place for more than 20 years and have no intention of stopping while they continue to deliver benefits.

For main street programs, the specification of a fixed time period is a limitation. It requires a council to go through a renewal, or more correctly a re-establishment, process every time the scheme expires. The renewal is as

onerous as establishing a new program with no reduction in the process. Some councils have been through this four times for the same program. Although there have been some benefits in this in providing opportunities for changing the geographical area of the scheme, increasing the amount raised, or varying the special rate formula, there also have been considerable legal and administrative costs in completing all the statutory steps, particularly if this has involved reviews to VCAT.

In addressing this issue, we consider that there is scope to streamline and improve the current provisions in the Act to at least reduce the process for scheme renewals, and to provide guidance around the establishment of lengthy scheme. The review should also consider the process for modifying an existing special rate or charge with a view to reducing the process that is currently akin to setting up a new scheme. We are also very supportive of a continued mechanism for review and performance monitoring against the scheme's objectives and intentions.

5.6 The Benefit Ratio

Sections 163 (2A) and (2B) of the Act require a council to work out the benefit ratio of a proposed special rate scheme. The benefit ratio is the estimated proportion of the total benefits of the scheme that will accrue as special benefits to persons required to pay the special rate. From the 2004 Ministerial Guidelines, the benefit ratio for all main street schemes is deemed to be 100%. It is considered that there is no other community benefit.

Although there has been acceptance of this as standard practice, councils continue to have to explain the benefit ratio to affected property owners and tenants and to include a discussion of it in the council reports giving notice of the declaration of a special rate and ultimately declaring the scheme. This is seen to be an unnecessary complication in the process, when the result is predetermined. It would be better if consideration of the benefit ratio were deleted from all main street schemes.

5.7 Submissions and Objections Process

Sections 163A and 163B spell out the submissions and objections process relating to special rates and charges. This process can be very complicated, time-consuming and stressful particularly for council staff. It is considered that there is not enough clarity about who can make a submission or objection. Consequently, in some cases, there are many objections from persons that are not considered valid.

In addition, Section 163B(5) of the Act requires an objector to a proposed special rate scheme to submit to a council documentary evidence with the objection that it is condition of the lease that the occupier is required to pay the special rate.

This potentially poses a large burden on councils administering main street special rates where approximately 95% of these rates is paid by occupiers as a condition of their property lease. There have been a few cases in recent years where councils have received hundreds of objections from business operators and have gone through the time-consuming process of obtaining and checking the documentary evidence from tenants.

In many instances now, councils simply accept all objections from tenants without checking or even requiring the documentary evidence. The results of many cases suggest that the outcome of the process did not rely on strict adherence to this provision of the Act. As a consequence, it is suggested that this provision be removed for main street special rates in an effort to streamline the process and reduce administrative costs.

Consideration also should be given to a balloting process that canvasses the level of support for a special rate or charge, as an alternative to the current submissions and objections process. This is used in several other parts of the world with main street centre or business improvement district programs. More detailed information about the balloting process in the United Kingdom can be obtained at www.gov.uk/guidance/business-improvement-districts.

5.8 The VCAT Review Process

Sections 185 and 185AA specify the current processes of applying to the Victorian Civil and Administrative Tribunal (VCAT) for a review of special rates and charges declared by a council. The “merit” grounds of review under Section 185 for main street special rates are extremely limited:

- That the projects funded by the special rate and charge will not provide a special benefit to the persons required to pay
- That the basis of distribution of the rate or charge among the persons liable to pay is unreasonable.

There have been over 40 main street-related cases at VCAT since these provisions were introduced up to 30 years ago. Over 90% of applications for review have been dismissed. An analysis of the cases indicates that the grounds for review set a very high bar for appellants. It has been hard to prove that a property owner or business occupant will not receive any special benefit from a scheme. Similarly, it is hard to demonstrate that the basis of distribution of a rate or charge meets the very high standard of being unreasonable when well accepted practices of basing these schemes on property valuation or fixed amounts are used and can be explained logically.

There is now an extensive case history of arguments and precedents at VCAT that effectively limit the chances of an appeal being successful. Where an application for review has been upheld, it normally relates to one or two properties in very particular circumstances such as being on the fringe of a centre or on the boundary between two designated “benefit areas” in a centre.

Similarly, the provisions of Section 185AA introduced in 1998 and relating to applications for review about the validity of a decision by a council to impose a special rate or charge have been used very sparingly by appellants affected by main street special rates and charges. In all cases, these applications have been dismissed.

Although there have been very few successful applications for review, there continues to be the perception in municipalities that do not have main street schemes that VCAT poses a major hurdle. There are concerns about whether a council's case will be successful as well as the time and costs involved in preparing and presenting the case, particularly if barristers and expert witnesses are involved. And, in some cases where an appeal case has been held over several days, a council's costs have totalled between \$50,000 and \$100,000 even though the appeal was ultimately dismissed.

The application for the VCAT review process is seen as an impediment to some councils considering introducing main street special rates/charges and renewing existing schemes. One consequence of this has been the dramatic decline in new schemes over the last 10 years. This is unfortunate given the potential of these schemes to create new jobs and increase economic activity in centres.

This issue raises the question about whether there is an ongoing need for the right to review main street schemes declared by councils given the limited grounds for review at VCAT, the very high proportion of appeals that are dismissed, and the time and costs involved.

We would argue that councils go through a very rigorous process in assessing whether to start the statutory process (often asking for evidence of a high level of business support before commencing that process), and in analysing, during the statutory process, the arguments in support for and objections against a special rate or charge proposal before declaring a scheme. Most schemes that are problematic do not get approved or are varied at the Council stage. In our view, the VCAT appeals process, therefore, could be eliminated without any adverse consequences.

The positive effects of this would be putting a greater onus on councils to scrutinise proposals more carefully. This would heighten their sense of accountability for the outcome of the process. Another effect would be the streamlining of the process by removing a major obstacle to the establishment and renewal of schemes.

6. Other Issues

6.1 Governance Arrangements

Unlike special rates and charges for specific infrastructure projects, those applying to main street programs have ongoing management and governance arrangements. These can include centre management organised through one of the following measures:

- A Committee of Council established under Section 86 of the Local Government Act
- An independent incorporated business association with a board or committee of management
- A company limited by guarantee with a board of management
- An advisory group to Council

Where councils forward the proceeds of a special rate or charge scheme to external groups such as business associations, agreements are developed that clearly outline the role, responsibilities, and accountabilities in expending the funds, and how a council will maintain oversight.

It is considered important that all of these possible governance arrangements are acknowledged, in some way, in the Local Government Act.

6.2 Business Voting in Council Elections

Businesses in many main street centres are concerned about their rights to participate fully and influence the outcome of council elections. At present, their opportunities in all parts of the State except the City of Melbourne are more limited than they think they should be.

Under Section 15 of the Act, business occupiers are entitled to apply to be enrolled on the voters' role for council elections. In most instances, the application must be accompanied by the written consent of the property owner. This is a more constrained process than applies in the City of Melbourne where businesses have an automatic right to be enrolled and vote.

Given the importance of businesses to the wellbeing not only of centres but of municipalities, it is considered important to change the current provisions in the Act so that businesses in all municipalities have an automatic right to be enrolled for council elections.

7. Recommended Changes to the Local Government Act

Mainstreet Australia recommends the following changes to the Local Government Act to address the issues and constraints highlighted in our discussion:

- Creation of a completely new section(s) of the Act (adjacent to the existing sections 163 to 166) to give recognition to and highlight the differences between main street special rates and charges for the purpose of centre management, marketing and business development, and those for specific infrastructure projects
- Within that section, clarification of the purposes of a main street scheme
- Removal of the need for publication of the notice of intention to declare a main street special rate or charge in a newspaper. Posting the notice on a council website is the recommended alternative in addition to the current practice of advisory letters and notices to property owners and occupiers
- Inclusion of the option for main street special rates and charges to be established for an indefinite period or lengthy periods such as 10 or 20 years
- Deletion of the provisions in the existing sections 163(2A), (2B) and (2C) relating to the benefit ratio
- A through review of the existing submissions and objections process including consideration of its replacement by a balloting process used in relation to Business Improvement Districts in other parts of the world. At the very least, deletion of the requirement in the existing section 163B(5) of the Act requiring an objector to a proposed special rate scheme to submit to a council documentary evidence with the objection that it is condition of the lease that the occupier is required to pay the special rate or charge
- Removal of the right to review at VCAT a Council decision declaring a main street special rate or charge, thereby. This would require an amendment to Sections 185 and 185AA specifying that the right of review under these sections would apply only to infrastructure projects
- Inclusion of a new section dealing with the possible governance arrangements for the implementation of a special rate or charge including by an independent incorporated business association working under an agreement with a council to pave the way for potential new financial models - BIDS

We also recommend that section 15 of the Act be amended so that business tenants in a retail/commercial centre have an automatic right to vote in council elections as currently applies in the City of Melbourne.

8. Proposed New Section to the Local Government Act

We recommend that a new section be added to the Local Government Act to

highlight the importance and distinctive features of special rates and charges used for centre programs and to streamline the current processes outlined in Sections 163 to 166 as they would apply to centre programs.

We suggest that further work be undertaken on Sections 163A and 163B relating to the submissions and objections process.

A draft of a new section is outlined below, building on the format of the current sections 163 to 166:

163 Business Improvement District or Centre Management, Marketing and Business Development Special Rates and Special Charges

- (1) A Council can establish a Business Improvement District or Centre Management Marketing and Business Development Program by declaring a special rate and special charge for a designated shopping/business centre or region*
- (2) The special rate and/or special charge may be used for one or more of the following purposes:*
 - (a) To market and promote a centre*
 - (b) To undertake business development initiatives*
 - (c) To undertake safety and security initiatives*
 - (d) To undertake strategic planning necessary to address business issues*
 - (e) To advocate for policy and other changes that would enhance the economic performance of centres*
 - (f) To undertake the improvement and maintenance of Council owned land, buildings and structures beyond agreed Council service levels provided at the expense of a Council*
 - (g) To undertake maintenance of privately owned assets in centres with the agreement of property owners*
 - (h) To purchase land in a centre to provide facilities to improve the centre*
 - (i) To provide and manage services or facilities in a centre*
- (3) Notwithstanding any other section of this Act, the special rate or special charge in a Business Improvement District is to be paid by both the property owner and business occupier of the property on a 50:50 basis*
- (4) The management of funds organised by a special rate or special charge established under subsection (1) may be undertaken by a committee of Council under Section 86 of the Act, an independent incorporated business association with a board or committee of management, or a company limited by guarantee with a board of management*

- (5) *The declaration of the special rate or special charge must specify:*
 - (a) *the total amount of the special rates and special charges to be levied; and*
 - (b) *the land in relation to which the special rate or special charge is declared; and*
 - (c) *the manner in which the special rate or special charge will be assessed and levied; and*
 - (d) *details of the period for which the special rate or special charge remains in force, including an indefinite period*
- (6) *A Council must not make a declaration under subsection (1) unless it has given public notice of its intention to make the declaration at least 28 days before making the declaration.*
- (7) *The public notice must—*
 - (a) *contain an outline of the proposed declaration; and*
 - (b) *set out the date on which it is proposed to make the declaration; and*
 - (c) *advise that copies of the proposed declaration are available for inspection at the Council office and on the Council website for at least 28 days after the posting on the website*
 - (d) *state which persons have a right to object to the proposed declaration, how those persons may object; and that objections in writing must be lodged with the Council within 28 days of the day on which the public notice is posted on the Council website.*
- (8) *A Council must send a copy of the public notice to each person who will be liable to pay the special rate or special charge within 3 working days of the day on which the public notice is posted on the Council website.*
- (9) *After a Council makes a declaration under subsection (1), it must send a notice to all persons who are liable or required to pay it.*
- (10) *The notice must contain—*
 - (a) *the information set out in subsection (5)*
 - (b) *a statement about when the special rate or special charge is payable.*

163A Submissions and objections concerning special rates and charges

- (1) *A person may make an objection or a submission under section 223 in relation to a Council's proposal to make a declaration under section 163.*

- (2) *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 in respect of which the special rate or special charge would be imposed.*

164 Discontinuance of a special rate or special charge

- (1) *After complying with the procedure for the levying of a special rate or special charge a Council may discontinue the whole or part of any purpose for which it is charging the special rate or special charge;*
- (2) *A Council must ensure that those persons who are liable to pay a special rate or special charge referred to in subsection (1) are notified of any decision under that subsection.*

165 Variation of special rate or special charge

- (1) *A special rate or special charge—*
- (a) *remains in force for the period specified in the declaration of it without any further declaration in any subsequent year; and*
 - (b) *may be varied in relation to—*
 - (i) *the amount to be paid; and*
 - (ii) *the persons on whom it is levied (except as is specifically provided under section 178 or 180); and*
 - (iii) *the land to which it applies.*
- (2) *A Council must ensure that those persons who are liable to pay a special rate or special charge which is varied are notified if it is varied.*
- (3) *If a variation of a special rate or special charge will result in—*
- (a) *persons being required to pay a special rate or special charge who were not previously required to do so; or*
 - (b) *an increase equal to or greater than 10% in the amount of the special rate or special charge payable by a person—*
- a Council must go through the processes of section 163 as if the variation were a declaration.*

9. Conclusion

Mainstreet Australia is very supportive of the Government's agenda to streamline the provisions of the Local Government Act so as to remove red tape and encourage more councils to work in partnership with their business communities to achieve economic growth and prosperity

In this submission, we have highlighted issues and concerns related to special rates and charges in main street strip shopping/business centres and town centres. We have put forward a set of recommendations to address these issues including a new section of the Act to highlight the importance and distinctive features of special rates and charges used for centre programs, to streamline the current processes outlined in Sections 163 to 166, and to open up the opportunity for a new model for centre management and development under the heading of Business Improvement Districts (BIDs).

We would be pleased to discuss our recommendations further with the Review Advisory Committee and Local Government Victoria.

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Appendix

List of Special Rate and Special Charge Programs for Main Streets and Town Centres in Victoria

Ballarat Sean Cameron, Manager Economic Development
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Program	Started	Size	2014-15 SR/SC	Chair	Coordinator
Bridge Mall	1981	110	\$320,000	David Maloney 5331 2167 david@faulls.com.au	John Marios 5331 8948 john@bridgemall.com.au

Banyule Nicole Maslin, Economic Development Officer
0403 230 412 Nicole.Maslin@banyule.vic.gov.au

Banyule Council provides matching funds for the special rates and charges raised in each centre so the figures below for 2014-15 should be doubled to get a more accurate picture of the program budgets.

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Heidelberg Central	1993	272	\$86,000	Lyle Harvey	Kim Gibb 0408 561 093 hbergkim@hotmail.net.au
Greensborough	1998	170	\$130,000	Bill Spiliopoulos	Noella Jacobs 0403 502 348 noella@ymp.com.au
Montmorency Village	1998	60	\$23,000	Debra Pantelejenko	Linda Carroll 0417 383 410 carrollcollided@aol.com
Watsonia	1998	68	\$26,000	Jeremy Richards	Vacant
Ivanhoe	199	245	\$120,000	David Dzanovski	Stavros Zikou 0414 387 187 stavros@marketa.com.au
Lower Plenty	1998	30	\$18,000	Jim Panovsko Dean Knape	Linda Carroll 0417 383 410 carrollcollided@aol.com Penny Jamieson 0419 362 868 meandahmarketing@bigpond.com
East Ivanhoe	1998	70	\$37,000		Stavros Zikou 0414 387 187 Stavros@marketa.com.au
West Heidelberg Mall	1998	130	\$55,000	Emily Metcalfe	
Eaglemont Village	2000	26	\$13,000	Eileen Delaney	
Macleod Village	2002	45	\$18,500	Lee Shipley	Heidi Crundwell 0417 580 009

Rosanna 2003 83 \$42,000 Trevor Atwell macleodvillageshopping@hotmail.com
 Maria Abadilla
 0411 881 248
 mariaabadilla@reviveprojects.com.au

Boroondara Madeleine Cheah, Team Leader, Economic Development
 9278 4382 Madeleine.Cheah@boroondara.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Glenferrie	1992	627	\$210,692	Kon Giahos	Steve Williams
Camberwell	1995	684	\$481,511	Henk Kelly-Kobes	Kerry Daly
Greythorn	1997	74	\$52,357	Dani Ahimastos	Yolanda Torissi
Ashburton	1998	140	\$87,701	Nick Coker	Liz Webb
Kew Junction	1998	613	\$246,586	Simon Phipps	Kirsty Breen
Maling Road	1998	82	\$63,461	Craig Pitt	Maria Abadilla
North Balwyn	2000	69	\$41,287	Marcello Riccui	Janet Busby
Burwood	2006	94	\$70,796	Travis Bateman	Bernadette Roach

Brimbank Leanne Deans, Manager City Strategy
 9249 4353 leanned@brimbank.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Sunshine	1998 & 2013	453	\$121,641	Bruce White	Tracey Cammock 0455 045 545
St Albans	1997 & 2014	297	\$115,193	Sebastian Agricola	Ray Jacobs 0402 992 116

Darebin Wendy Dinning, Business Development Coordinator
 8470 8416 wendy.dinning@darebin.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Fairfield Village	1999	120	\$55,000	David Crowley	Heidi Crundwell 0417 580 009
Reservoir Village	1999	90	\$50,000	Michael Love	Penny Jamieson 0419 362 868
High Street Northcote	1999	217	\$85,977	Shelly Anderson	Penny Jamieson 0419 362 868
Preston Central	2008	221	\$110,000	Council Run	Penny Jamieson 0419 362 868

Glen Eira Lynda Bredin, Manager Economic Development
 9524 3384 LBredin@gleneira.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Bentleigh	1994	301	\$185,700	Bernie Santen	Alex Hume 0410 504 994 alexhume@bigpond.net.au
Elsternwick	1994	244	\$170,941	Juanita Kelly 0419 589 724	

Carnegie 1995 231 \$170,931 Graeme Callen Noella Jacobs
0412 651 528 0403 502 348
noella@ymp.com.au

Greater Geelong Steve Bentley, Manager Events, Central Geelong & Waterfront
5272 4342 sbentley@geelongcity.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Central Geelong	2011	1492	\$804,400	Paul Whittaker	Jodie Reyntjes JReyntjes@geelongcity.vic.gov.au

Greater Shepparton Fiona Le Gassick, Manager Marketing & Communications
5832 9716 fiona.legassick@shepparton.vic.gov.au

Program	Started	Size	2014-15 Diff Rate	Chair	Coordinator
Shepparton Show Me	1998	1800	\$646,083	Malcolm Blake	Mat Innes-Irons 0409 871 955 mat.innes-irons@shepparton.vic.gov.au

Kingston Andrew Carcelli, Business Facilitation Officer, Eco Dev
0438 965 931 andrew.carcelli@kingston.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Mordialloc	2004	112	\$57,000	Megan Thornton 0405 901 799 megan@mordiallocflorist.com.au	Linda Gale 0409 415 386 galemail@ozemail.com.au

Manningham Ben Harnwell, Manager Economic Development & Tourism
9840 9338 Ben.Harnwell@manningham.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Templestowe Village	1996, 2002 & 2010	82	\$46,800	Gus Morello 0425 714 749 agaziomorello@gmail.com	Sally Curtis 0400 307 013 sall.curtis@gmail.com
Warrandyte	1996 & 2011	81	\$49,564	Janelle Wareham 9844 0960 janelle@riveresque.com.au	Meredith Thornton 0412 437 920 meredithwba@gmail.com
Tunstall Square	1996	48	\$49,680	Gus El Moustafa 9842 1820 tunstallfresh@gmail.com	Irene Goonan 0412 345 078 i.goonan@bigpond.net.au

Maroondah Leanne Anderson, Business Support Officer

9298 4335 leanne.anderson@maroondah.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Croydon	1991	185	\$130,000	Andrew King, rkingmens@bigpond.com 9723 3673	Marta Makkai, cmsta cmsta croydonmainstreet@gmail.com

Mildura Rural City Mandy Whelan, Corporate Services General Manager
5018 8161 sharon.vantses@mildura.vic.gov.au

Program	Started	Size	2014-15 Diff Rate	Chair	Coordinator
Mildura City	2002	373	\$606,587	Ryan Hammerton	Cathy Violi 5023 8010 marjeting@milduracity.com.au

Monash Joy Saunders, Economic Development Coordinator
9518 3577 joys@monash.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Pinewood	2004	58	\$25,900	Tino Li Donni	Sara Li Donni

Moonee Valley Jason Sharp, Coordinator Economic Development
9243 1187 jsharp@mvcc.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Moonee Ponds	1994	560	\$156,000	Carlos Romero	Quentin Aisbett 0421 502 886
Flemington	1996	114	\$52,500	Wil Cordova	Michael Gillis 0416 239 587 mjgillis@optusnet.com.au
Niddrie	1998	209	\$110,000	John Pallisco	Ray Jacobs 0402 992 116 ray@ymp.com.au
Union Road	1996	163	\$52,500	Travis Hill	

Moreland Maria-Luisa Nardella, Manager Economic Development
9240 2449 mlnardella@moreland.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Sydney Road Brunswick	1992	614	\$283,069	Vicki Likoudi	Claire Perry 0425 739 922 info@sydneyroad.com.au
Coburg	1996	267	\$177,487	Jason Sennitt	Silvana Troiani 0417 313 423 stroiani@bigpond.net.au

Mornington Peninsula Tania Treasure, Team Leader Business Development

5950 1845 tania.treasure@mornpen.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Rosebud	2001	403	\$83,000	Kevin Sheaves	Alison Doherty 0403 889 559
Mt Eliza	2001	187	\$55,000	Trish Stamp	Alison Doherty 0403 889 559
Hastings	2004	361	\$51,000	Jill Brann (Acting)	Angie Baker 0403 313 649
Sorrento	2008	306	\$91,500	Fred Dijkraff	Natalie Garner 0424 000 391
Mornington	2010	440	\$107,000	Judy Edwards	Kim Rowe 0407 589 404

Nilumbik Darko Popovski, Business Development + Tourism Coordinator
9433 3315 darko.popovski@nilumbik.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Eltham	1996	174	\$130,000	Jackie Mutimer euanandjackie @elthamcarpet one.com	Lindsay Snell 0419 351 640 eccimarketing@gmail.com
Diamond Creek	2002	137	\$123,000	Philip Marendaz Philip@mabc.n et.au	Heidi Crundwell 0417 580 009 heidi@diamondcreekshopping.com.au
Hurstbridge	2006	65	\$24,500	Craig Usher naturesharvest @aapt.net.au	Petra Leaford 0408 541 669 hurstbridgevillage.com.au

Port Phillip Dalique Knight, Business Development Officer Eco Dev
9209 6443 DKnight@portphillip.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Fitzroy Street St Kilda	2006	241	\$197,000	Jonathan Sherren 0407 685 406 jono@jbsh.com .au	Michelle Nicol 0400 811 264 nicol.michelle@gmail.com
Acland Street Village	1999	281	\$195,000	Palma Smith 0417 331 797 president@acla ndstreetvillage. com.au	Steve Williams 0434 182 843 coordinator@aclandstreetvilla ge.com.au
Port Melbourne	1996	386	\$208,000	Paul Littman 0419 540 004 paul.littman@g mail.com	

Stonnington Melissa Rathje, Coordinator Economic Development

8290 1225 mrathje@stonnington.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Chapel Street	1992	1778	\$755,076	Terry Gleeson	Oskar Cebergs 9529 6331 oskar@chapelstreet.com.au
Glenferrie Road Malvern	1995	506	\$170,267	Linda Tassone	Alex Hume 0410 504 994 info@glenferrieroadmalvern.com.au
High Street Armadale	1995	370	\$202,436	TBC	Marco Morales 0402 662 123 marketing@highstreetarmadale.com.au
Toorak Road South Yarra	1997	493	\$186,387	Ian Sharp	Ruth Speedy 0402 144 222 contact@toorakroadsouthyarra.com.au
Toorak Village	1997	293	\$116,949	Tony Fialides	Tracey Cammock 0438 542 713 tracey@toorakvillage.com.au

Swan Hill Rural City

Steve Matthews, Economic & Community Development Manager, 5036 2338 smatthews@swanhill.vic.gov.au

Program	Started	Size	2014-15 SR/SC	Chair	Coordinator
Swan Hill Inc.	2002	738	\$339,130	Murray Ray 0409 215 755	Julie Wiggins 0407 826 177 info@swanhillonline.com

Whitehorse Sarah Tekopua, Business & Industry Development Officer
9262 6105 sarah.tekopua@whitehorse.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Burwood Heights	1994	37	\$41,002	Claude Bernardo	Karen Webb
Brentford Square	1994	41	\$50,066	Rohan Brown	Rachel Poldermans

Whittlesea Hannah Jordan, Retail Business Services Officer
9217 2545 hannah.jordan@whittlesea.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Lalor	1997	92	\$75,000	Joseph Alelasi	Ray Jacobs 0402 992 116 Noella Jacobs 0403 502 348
Thomastown	1997	80	\$49,000	Michael Rossi	Ray Jacobs 0402 992 116
Bundoora Square	2001	92	\$70,000	Monica White	Ray Jacobs 0402 992 116

Noella Jacobs
0403 502 348

Yarra Kim Swinson, Coordinator Economic Development
9205 5303 kim.swinson@yarracity.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Bridge Road Richmond	2002	587	\$204,132	Herschel Landes 0417 758 884 lands@optusnet. com.au	Pauline Keays contact@bridgerd.com.au

Yarra Ranges Andrea Wright, Business Projects Officer, Eco Dev
9294 6735 a.wright@yarraranges.vic.gov.au

Program	Started	Size	2014-15 SR/SC	President	Coordinator
Belgrave	1999	93	\$41,850		Marina Dennis

In addition, Council intends to declare on 28 July 2015 a new special rate for Mooroolbark. The program involves 185 properties in the shopping centre and would raise \$40,150 in 2015-16. Geoff Earney is the President of the Mooroolbark Traders and Community Group Inc.