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INCORPORATED 1977

VICTORIAN INSTITUTE of RATE ADMINISTRATORS

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VIRA NEWS

AUGUST, 1994

"Articles and advertisements are for the information of members only, legal advice should be sought from your own solicitors in regard to any legal matters."

INCOMING PRESIDENT'S REPORT

In my first report as President of the Institute I would firstly like to thank my predecessor Martin King for the great effort he put into his role as President in the last two years. Martin's enthusiasm and innovation were an inspiration to us all and I hope I can maintain the same high standard. Martin and Gerry Pekin have both resigned from the committee after many years of terrific service to the institute but I am sure they will remain actively involved.

As we look towards the 1994/95 year I think I can safely say this will be the year of greatest change Local Government in Victoria has seen to date. Municipal restructure will lead to a reduction in the total number of municipalities and a new municipalities will operate initially under Commissioner(s) and an acting Chief Executive Officer. A new corporate structure will be established and we will all be competing for what hopefully will be positions of greater challenges, responsibility and rewards.

To successfully obtain these positions or to retain our role with CCT we will have to, at least, maintain and preferably enhance our standard of work in these turbulent times. I believe it is important that we continue our professional development to give us the edge in the selection process. As an Institute we are committed to

meeting the member's needs so if you have any ideas on training the Institute may be able to provide please contact our Professional Development Co-ordinator Noel Grant at the Shire of Deakin or any of the other committee members or regional convenors listed in this newsletter.

In terms of the future of the Institute the regional structure will be reviewed after the Municipal restructure is completed. The Committee is intent on the Institute remaining as a separate viable entity in the Local Government industry but the Committee has also agreed to participate in the working party to explore whether a single professional body should be formed as reported in the last newsletter. It is hoped that all the advantages and disadvantages and possible structure of a single professional body can be identified by the steering committee following which a report can be presented to our members at a general meeting for a decision on whether our Institute was to amalgamate with this new body. At this stage most professional bodies have agreed to participate in the steering committee but have not given any commitment beyond that. Further information will be provided to members in future newsletters.

Brian Hall
PRESIDENT

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Uniform Business Rate In Victoria

By Robert Smart

The article in a recent edition of The Age regarding the introduction of a Uniform Business Rate or the use of a mixture of valuations raises some interesting areas for discussion.

The Minister for Small Business has proposed either a uniform rate base or a mixture of improved and unimproved values be used for small business in Victoria.

Some businesses will be adversely affected by a change in rating base whether it is a change from site to C.I.V. or N.A.V.; or N.A.V. to site or C.I.V.

Some arguments for reduced rates that many commercial ratepayers put forward and the counter arguments are:

Commercial properties use none of the services.

Whilst there is an element of truth in this claim i.e.. Garbage, Library, Swimming Pool, etc. The counter argument is that commercial and industrial usage puts far greater stress on the infrastructure – roads and footpaths and provision of parking. Customers and staff of the business may also use human type services.

NAV – Bias against commercial properties.

It is true that there is a bias towards residential properties.

– Residential properties have a ceiling of 5% NAV, i.e.. 5% of the Capital Improved Value whereas Commercial properties NAV is calculated on estimated rent less expenses which can be anywhere from 5% to 10%.

Therefore a factory valued at \$100,000 and a house valued at \$100,000 would attract the following rate:

	CIV	NAV	Rates @ 8.4715
Factory	100,000	10,000	\$847.15
House	100,000	5,000	\$423.58

However the business may claim the rates as a tax deduction therefore the actual cost is lessened by X%.

There is an underlying assumption that commercial property ratepayers are not residents of the City. If commercial properties receive rate relief, residential properties will either receive an increase in rates or a reduction in services.

ARTICLE FROM THE AGE

Government aims for fairer system for rates.

The State Government has plans to change the present council rating system with a view to adopting a uniform rate evaluation method for all small businesses.

The move, which is likely to reduce council delays and red tape, has been made more feasible by the State Government's amalgamation of local councils.

Although the effects of a uniform rates system on small business costs has yet to be assessed, its introduction is likely to be more equitable, with all businesses assessed by the same method.

At present, businesses in some council areas are assessed by one method and their neighbours in an adjoining council area by another.

The Minister for Small business, Mr. Heffernan, said that among main complaints to his department were the costs and delays associated with local government.

He said that between mid 1990 and mid 1992 inflation fell from 7.5 per cent to 1.3 per cent but commercial rates went up by more than 20 per cent.

The Ministry for Local Government was examining the whole rating system, Mr. Heffernan said.

"In the longer term, we have to look at a rating system that is more equitable in regard to the difference between the private and the business sectors," he said.

"The business sector really requests very few services. We have got factories in the commercial area where you don't get any streets swept, you don't get any garbage picked up you have to get your commercial garbage removed yourself. You don't use the swimming pool and you don't use the library.

"They use nothing, yet they pay enormous costs. It is just beyond belief. It will have to be rectified and made more equitable."

Councils now base their rate levy on either land value or the net annual value (NAV). The NAV is the yearly return expected if the property is rented.

The Government is examining two options, capital improved value and unimproved value. Unimproved value is the same as land value; improved value takes into account the value of any buildings in addition to the value of the land.

Since both options take account of the land value, the owner of premises in the CBD can expect to pay higher rates no matter which system is adopted.

"I have a pretty open mind on it at the moment," Mr. Heffernan said.

He said the Government might adopt a "shandy" approach, using a mixture of improved and unimproved values. He expected to have the results of his department's evaluation of the systems next month.

Heffernan said that he believed that if all councils had the same rating systems it would be easy to compare municipalities.

Small business and retail groups have welcomed the review of council rates as they believe they pay too much for services they do not receive.

However, they all agreed it would take time for them to work out whether they would be better off under either a capital improved or unimproved system.

"Rates are one of the main areas of concern for small business," said Mr. Tony Christakakis, on the Combined Retailers Association.

"What return is the business community getting for the increases in rates? We can't see any."

"It needs to be a proper review, with the business community sitting down with the Government and with representatives of local councils to discuss the current system," he said. "That way, they can make a proper assessment on whether we need a new system completely."

"We would also like to see some reassessment of the powers of councils to impose levies on the business community. It is really a de facto tax on small businessmen."

Among the levies he has opposed are those for street beautification and streetscaping.

"We would like to see a rate that is justifiable for the service provided," he said. "The business community subsidises the general rate for each municipality but we believe that subsidy should be based on services provided."

The executive director of the Retail Traders Association, Mr. Ron Thomlinson, said that if the system was changed

to capital improved value, business would pay more.

But he said that businesses already assessed by NAV would not notice much change.

A valuer with Herron Todd White, Mr. Phil Cramer, said businesses would pay less in rates if they were assessed by capital improved value.

"The residential will stay the same, but the commercial will go down quite considerably," Mr. Cramer said.

"The values of commercial properties have dropped over the past four years. The values of residential properties have dropped, but not the same extent.

To illustrate the differing effects of the competing rating systems, Mr. Cramer gave as an example a factory building worth \$300,000 on land worth \$700,000 and a house worth \$500,000 on a \$500,000 site.

Both had a combined value of \$1 million, so under capital improved value they would pay the same.

Under unimproved value, the factory would pay more because the land was worth more.

Under NAV the factory would again pay more because commercial properties were assessed on between six and nine per cent of the capital, whereas domestic properties were rated at five per cent.

But Mr. Cramer said rates still depended on the efficiency of the council and if a council needed to raise \$40 million for its budget it still had to levy rates.

"The rating burden might change," he said "Whatever changes the Government introduces they are bound to have profound effects on both the business and residential communities."



REGION NEWS

BALLARAT REGION REPORT

Since my Annual Report in the last Newsletter, the "wheels in motion" have certainly taken off in the Ballarat Region.

Restructure turned seven former Municipalities into three new Local Government areas, namely City of Ballarat, Shire of Moorabool and the Southern Rural Shire.

A final report is now awaited for the restructure of the south-west region, which will have another impact on the membership of our Region. It would appear that the Shires of Ripon, Avoca and Lexton will amalgamate, the Shire and City of Ararat will amalgamate and the Shire and City of Stawell will also amalgamate.

We welcome Julie Pritchett as V.I.R.A.'s Committee Member representative for our Region. It is anticipated that the next Regional Meeting will be held on Wednesday, 24th August, commencing at 10.30a.m. in the Linton Office of the Southern rural Shire. Lunch will be provided.

A welcome is extended to the members of the former Geelong Region to attend.

For the information of other Members, the City of Ballarat is now working very hard on the implementation of one I.T. System by the 1st October next for the new City of Ballarat. This will be a huge task considering there are three total former Municipalities and four part former Municipalities included now making up a total of 35,200 assessments.

The formulation of budgets is also a very high priority for the 1994/95 year.

Good luck to all involved in these exciting times ahead.

Ian Effrett
CONVENOR

NORTH CENTRAL REGION REPORT

The North Central Region held a meeting at the Old Town Hall, Bendigo on Thursday, 4th August, 1994. There were 15 members in attendance.

Among the issues raised and discussed were:-

- the need for a checklist concerning the valuation and rating provisions of the Constituting Orders for restructured municipalities;

- the publication "Value for Money – Case Studies in Competitive Tendering and Contracting in Local Government" prepared by the Office of Local Government;

- the recovery of rates and charges more than 3 years in arrears using the provisions of Section 181, Local Government Act 1989;

- Rate payment was not received by 10th April. A request is made to make payment of the first two instalments and the balance by instalments due by 31st May and 31st August. What interest is payable? Interest on the total amount which was not paid by 10th April interest on two instalments only.

- The continuation of Regional Meetings despite the municipal restructure process.

Rate issues raised by Members where there are different practices/opinions in various municipalities;

- Rate assessment covers 3 lots on a plan of subdivision. Contract of sale is signed for one lot, and at settlement there are rates in arrears. Following transfer, payment of a portion of the arrears and charges is tendered. Would you expect payment in full, or has the correct payment been made?

- Is interest payable on arrears of interest?

- Must a rate notice be RECEIVED by the Ratepayer to establish a liability to pay rates and charges?

- Rates and charges have been in arrears for 3 years. A part payment is made which does not cover the full amount levied for the first rating year in arrears. Does this payment affect the date/period in an action to recover the outstanding amount using Section 181 (S of Land procedures)?

The views of the Executive will be sought in relation to these issues, however, if anyone has an opinion/response I will be happy to collate the responses and report the results in the next issue of our newsletter. In addition, I am sure there will be a number of other queries to which you would like a consensus of opinion. You can contact me at the Rural City of Seymour – telephone (057) 921 200, or fax (057) 923 998.

Graeme Tindle
CONVENOR

REGION NEWS CONTINUED

EAST GIPPSLAND REGION REPORT

The last Meeting of this Region was held on Thursday July 28th at the City of Sale. much of the discussion was regarding Enterprise Agreements and Amalgamations as this area has now been formally referenced.

CCT was also discussed fully with much comment being placed about this being an unknown factor due to Amalgamations. Some Councils have already mapped out three year plans but it is unlikely these will be followed by new authorities.

Differential rating was also discussed with varied points of view being discussed. It was valuable to have Brian Hall and Ian Holland attend and give the Meeting details of happenings in other areas.

The next meeting will be held on Wednesday 30th of November at a Council to be determined by the State Government.

P. Telfer
CONVENOR



— Meeting Dates - 1994/95 —

Annual Country Conference

Thursday 16th February to Saturday 18th February, 1995

Annual General Meeting:

Friday 7th July, 1995

Committee Meetings:

Wednesday 19th October, 1994 St. Kilda

Friday 20th January, 1995 St. Kilda

Thursday 15th June, 1995 Knox
(Budget Meeting)

Regional Meeting to be advised.

Professional Development

Annual Report 1993/94

It gives me great pleasure to present my report for the 1993-94 year. This past twelve months has been extremely difficult for all employees in the Local Government Industry, and I feel that this pace of change will continue for the next few years. Through these turbulent times, our membership has displayed a high level of professionalism that it is renowned for, as seen by the Rate Seminar held last year at Chaucers.

Associated Diploma Course

There are still a few members enrolled in this course. However it would be encouraging to TAFE and this Institute if more people who are interested in furthering their education, knowledge and qualifications would enrol in the course. I have been to several meetings at RMIT during the last year to discuss the curriculum and subject content, and I am pleased with the current situation. If any members have any suggestions or ideas regarding the course, do not hesitate to contact me.

Professional development course

Once again the Executive met with the MAV Training section to discuss and modify the course where necessary. This year saw some fairly radical changes from the original content, to meet the rapid changes in both Legislation and staff requirements for our profession. There is a waiting list for the next two modules, so I would suggest that any members wishing to update their skills and knowledge register immediately. The expertise from the presenters of the modules, especially past members Rod Hughes, Geoff Fleming and Gerry Pekin should not go without recognition, and I extend to these people my sincere appreciation on behalf of the Institute. The Professional

Development Program for Rate Administrators presented by the MAV will be held in the first half of 1995 probably between May and June, 1995.

The Future

The introduction of the Institute's Business Plan will see our future directions plotted and assist us to meet the vision and objectives of the Institute. It is imperative that we all strive to better ourselves and to promote ourselves as a professional body, which will strengthen our standing within the Local Government Industry. In my 1992-93 report I put forward the suggestion that the Institute create a scholarship on similar terms of the I.M.M., and if successful in gaining another term on the Executive I will be moving towards the implementation of such a scheme. This scholarship can only further add to the development of members in their search for excellence.

Conclusion

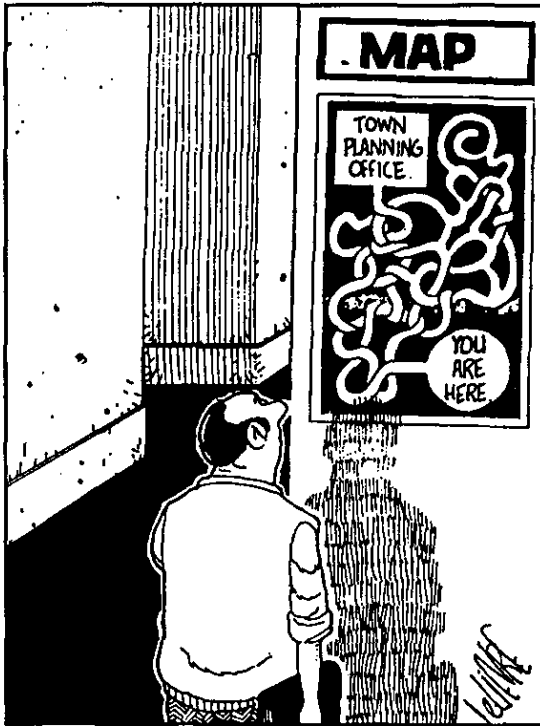
Although during the past year I have been rather conspicuous by my absences from the Executive meetings, the next year will see a more concerted effort on my behalf to create ideas and assist the members in their development. To our past President, Martin, I wish to thank you for concerted and dedicated service to our profession over the past two years and for assistance to me during this period. The Executive continues to operate extremely well and I am sure this will continue well into the future.

Noel Grant

****** 1994/95 DUE DATES ******

As we are all aware the Minister for Local Government sets the due dates for payment of rates under Section 167(2) and may alter the dates for payment under section 167(2a). However, for the 1994/95 year the Minister has decided not to change the due dates for payment.

Therefore, the due date for full payment will be Tuesday 11 April, 1995 and the due dates for the four instalments will be 31st December 1994, 28th February 1995, 31st May 1995 and 31st August 1995. As 31st December is a Saturday, the due date becomes Tuesday, 3rd January 1995 for Councils who are not open to receive money on the Saturday or on Monday 2nd January which should be a public holiday in lieu of Sunday 1st January.



NEW MEMBERS

Member	Richard Turnball	Council	Shire of Melton
	Thurairajan Shamnugapalan		Shire of Melton
	Karen Mennen		Shire of Benalla
	Ian Turk		City of Greater Bendigo
	Wendy Mitchell		City of Stawell
	Mary Jones		Shire of Narracan



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Membership is extended to all Rate Administrators, Deputy Rate Administrators and Rate Office Staff. Those persons who desire to participate in this Institute are invited to apply for membership of the class appropriate to their appointed office viz:—

FELLOW:	A person who is and has been for a period not less than five years, a practising Rate Administrator.
MEMBER:	A person who is practising Rate Administrator of less than five years service as such.
ASSOCIATE:	A person who is a practising Deputy Rate Administrator.
AFFILIATE:	A person who has demonstrated his interest in furthering the profession of Rate Administration.

Annual Subscription applicable to each class of membership is as follows and should be submitted with this application.

FELLOW:	MEMBER:	ASSOCIATE:	AFFILIATE:
\$50.00	\$50.00	\$30.00	\$30.00



VICTORIAN INSTITUTE OF RATE ADMINISTRATORS

APPLICATION FOR MEMBERSHIP

Name:
(Surname) (First Name)

Period of Employment in Present Status:years

Municipality:

Position:

Address for Correspondence:

.....

Telephone: (Private) (Bus.)

Class of Membership:

Signature:

Proposer:

Date:



Victorian Institute of Rate Administrators

The newsletter is published four times yearly. it is a great way to have your say on any issues or let others know about particular problems you've experienced and how you dealt with them; OR perhaps ask for advice on issues you have not come across before.

Information or articles on topics such as:

Changing Legislation and its effects

Regional News

Faces Going Places

Welcome to New Members

Odd Spots

Events/Seminars

Professional Development

Relevant Cartoon Strips

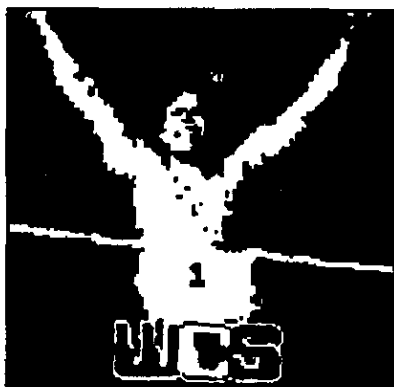
would all be appreciated.

If you have any contributions or articles contact Clare Bowkett at the City of Heidelberg.

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SPECIAL RATES AND CHARGES UPDATE

The two most recent reported cases decided by the Administrative Appeals Tribunal on Section 163 of the Local Government Act 1989 (Campbell and Ors. V Shire of Flinders, Appeal No. 1993/62063 dated 31st march 1994, 12 AATR 231 and Jacobsen and Ors. V Shire of Flinders, Appeal No. 1993/61693 dated 19th April 1994, 12 AATR 207) confirm that the Section, in an almost unshakeable way, is continuing to be given a liberal and common sense interpretation by the Tribunal. This is particularly so in respect of Jacobsen case, given the strongly constituted Tribunal in Deputy President R D Barton and member W R Gould.

In the Campbell Case the Shire had declared a special rate for the purpose of constructing two car parking areas off Beach Street, Dromana. Fifty two properties, all zoned "local commercial or future commercial", were considered to receive a special benefit. The Appellants, who owned residential properties within the scheme argued that their properties would not receive a special benefit (as in their view the carpark was principally designed to service commercial properties) and the distribution of liability was unreasonable in that other properties would receive a greater level of benefit. The

Tribunal dismissed both of these arguments and confirmed the special rate.

It said that a special benefit would flow to the Appellants' properties through increased land values and that in satisfying this test it was appropriate to assess not only present use but underlying zoning and development potential. The Appellants' properties, in the Tribunal's view, had an almost certain commercial future. The Tribunal rejected a suggestion that its conclusion relied upon a "hypothetical development method of valuation".

The Tribunal also made it clear that a "need" for proposed carpark was not a relevant consideration in assessing special benefit and that on appeal the Shire, in the absence of an Appellant presenting relevant evidence to the contrary, was not required to specifically qualify and prove the special benefit.

As to the second argument (that the bases of distributing was unreasonable) the Tribunal held that to the extent it could be argued that there were different levels of benefit, any difference was marginal and so not relevant as a ground of appeal which the Tribunal was prepared to uphold. Member Moles said (at 237)-

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"However it is my view that such different levels of special benefit in this case, given the general proximity of all properties in the special rate area to the two carparks are only marginal, and do not form a basis on which to conclude that the distribution of the rate is unreasonable."

In Jacobsen case, the Shire declared a special charge for both street construction and a drainage scheme. It was reviewed on the basis that the works were unnecessary, unsuitable, premature and that the costs were wrongly apportioned and excessive.

In dismissing the application for review the Tribunal held (quoting from the relevant parts of the head note to the reported case at 208) –

"1. The grounds of review of street schemes and charges under the Local Government Act 1989 were narrower than under the Local Government Act 1958.

2. The determination by the municipality as to special benefit should be given appropriate weight.

3. The highest level of benefit is actual usage; the provision of adequate street drainage was a basic level of service to property owners within the area served.

4. Even where there was no actual current use of the proposed works, there could still be special benefit.

5. The degree of special benefit did not need to be equal between contributors.

6. The Tribunal should not impose its opinion as to the reasonable of distribution of the charge unless the Council's decision was clearly wrong, which in this case it was not.

7. The land having already been subdivided and dwellings already constructed, the planning scheme had no relevant control and the ground of objection based on relevant planning scheme policies therefore failed.

8. The proposed works were necessary; the existence of private drainage arrangements could not be recognised to provide proper drainage or proper road standards for the area.

9. The onus of establishing a ground for review is on the person seeking review."

If there are any queries arising out of this update, please do not hesitate to contact the writer.

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ANNUAL GENERAL MEETING

At the Annual General Meeting held at the Knox Club on 8th July, 1994, Mr. John Bennet of the Site Rating Defence Group gave a presentation on the benefits of Site Rating as a replacement for all forms of taxation at the federal, state and local level. While his presentation left a lot to be desired it is important all members are familiar with the advantages and disadvantages of Site Value, Capital Improved Value and Net Annual Value as rating base as the new municipalities will need to decide on which base will be used.

John Enright of the Office of Local government gave an overview of the orders constituting new municipalities in Ballarat, Bendigo and the inner metropolitan area and

the issues to be faced by members in rating and electoral procedures.

Ken Burton from the city of Hamilton reported on a meeting attended by members of the Local Government Board and the Victorian Farmers Federation in which the Local Government Board indicated they will be issuing a paper to Commissioners in non urban municipalities suggesting special rating agreements (i.e. discounted rates) should apply to farms!

Peter Lucas, from Home, Wilkinson & Lowry solicitors gave a further update on Special Rates and Charges and an article from Peter is included in this newsletter for the benefit of members.

Section 181



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Bishops Collections have been supporters of the VIRA for many years, the following has kindly been provided for your information.

Some observations on the effects of Section 181 of the Local Government Act, 1989

A recent, still unresolved and unreported Supreme court Action wherein a Council sought to sell land under the provisions of S. 181 of the Local Government Act has raised some important implications for Councils where it is desired to dispose of land for unpaid rates.

Arguments put with some success by the ratepayers' legal advisers were as follows:-

"the Act applies only to rates that have accrued since the date the Act came into force (i.e. October, 1992) and it does not refer to rates accrued before that date."

On this basis it is not difficult to see why litigation is sparse as regards the operation of this section.

The other aspects of the new Act which deserve consideration is to contrast it with S. 354 of the old Act. The machinery provisions which were to obtain a judgement for rates, transfer the judgement to the Supreme Court and enforce the judgement by way of a

Writ of Fieri Facias on Title and conduct a Sheriff's auction of the property.

The new Section 181 of the Local Government Act does not have a procedure of the same nature and operates without the protection of the Sheriff who is an officer of the Court. The difficulties that may arise are manifold. The Act does not give any right to possession prior to sale and without the intervention of the Sheriff, an officer of the Court, the Council may find that the real estate agent it appoints to conduct the transaction subject to abuse, assault and the like by the occupants of the premises. In the unresolved Supreme Court Action mentioned above the agent erected a board on the premises on several occasions to find that hours later it was pulled down by the ratepayer. The agent was also subjected to abuse from the ratepayer.

In the Writer's opinion it is still possible to transfer a judgement for rates to the Supreme Court and it may be worth considering whether a sale with the assistance of the Sheriff may not be the better course.

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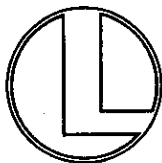
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Your Committee 1994/1995

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Secretary Robert Smart (FVIRA)	City of Port Phillip Telephone: 536 1333 Facsimile: 534 9105
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