



VICTORIAN INSTITUTE of RATE ADMINISTRATORS

PRESIDENT

Mr Steven Collins
City of Altona
P O Box 21
ALTONA 3018
BUSINESS : 398 2244
AFTER HOURS : 369 4392

SECRETARY

Mr Geoffrey Fleming
City of Oakleigh
P O Box 21
OAKLEIGH 3166
BUSINESS : 568 1011
AFTER HOURS : 580 8558

VOLUME X No. 3

V.I.R.A. NEWS

Jan./Feb 1987

PRESIDENTS REPORT

Shortly before Christmas the Local Government Department released the Draft Proposals for the Bill which is intended to replace the present Local Government Act (1958). These proposals are the result, to date, of the deliberations of the Governments' 'Local Government Bill Working Party.' This Institute is represented on that Working Party by both Murray Hockey and myself (and once again it is pleasing to note that ours is the only local government professional body to have dual representation).

The recommendations contained in those Draft Proposals, pave the way for implementation of substantial changes in local government administration in this State and particularly so with respect to the legislation relating to rating.

Rating matters are contained in Part 8 of the Draft Proposals (sections 174 to 211) and it is not without significance that this is the ONLY part of the issued proposals which appears with the warning to Councils in the explanatory notes issued with the Proposals document that: "This part makes some substantial amendments to the provisions under which municipal councils make and levy rates. The provisions should be considered carefully and in depth by each council."!

Whilst it must be realized that several of the matters presented in this Part were items of Government policy, I am pleased to say that we have been successful in having inserted into these proposals what we believe are several sections which tackle long standing problems which have been painfully apparent to practitioners in our field over a number of years (see for example section 177).

The Minister requests that comments on these Draft Proposals be made by no later than the end of February 1987 as he intends to introduce the Bill into Parliament during the 1987 Autumn sitting.

Whilst space within the covers of this newsletter does not permit publication of the proposals relating to the electoral provisions contained in this most important document (on which this Institute has also had substantial input), I must request that all members carefully consider the ramifications of the rating proposals which are copied on the following pages and write to either Murray Hockey or myself with any concerns you may have.

As copies of the Draft Proposals have now been distributed to all Victorian municipalities, I suggest that you seek out that document at your own workplace in order to consider the implication of the proposals in their totality.

IMPORTANT DATES TO REMEMBER

1) Institute General Meeting at City of Benailla - 13th March 1987

2) Foundation meeting of North Western Region of V.I.R.A. - Monday 30th March 1987

As reported in the last newsletter, a new regional group of members is being formed amongst the Northern municipalities in the State. This group is to be called the North Western Region and conforms to the boundaries of the North Western Branch of the Institute of Municipal Management. The Foundation meeting of this group is to be held at the City of Swan Hill on Monday 30th March 1987. Eligible Rate Administrators or others with interest in this field, (whether or not they are members of this Institute) who are employed in that locality are recommended to contact John Hurry, Rate Collector of the City of Swan Hill if they wish to attend.

PART 8—RATES AND CHARGES

Land which is rateable.

174. (1) Land is rateable land unless it is in one of the following categories:

(a) Land which—

- (i) is used exclusively for public or municipal purposes; or
- (ii) is unoccupied and is the property of the Crown or is vested in a Minister, a public statutory body, trustees appointed under an Act to hold that land in trust for public or municipal purposes or a Council;

(b) Land used exclusively for religious or charitable purposes, including any land vested in or held in trust for any religious body and used exclusively—

- (i) as a residence of a practising Minister of religion; or
- (ii) for the education and training of persons to be Ministers of religion; or
- (iii) for both the purposes in sub-paragraphs (i) and (ii);

(c) Land which—

- (i) is held or to be held as a claim under a miner's right for mining purposes; or
- (ii) is included or to be included in a lease from the Crown for mining purposes—

and includes all buildings covering machinery on a mine and used exclusively for the purposes of the mine;

(d) Land held in trust and used exclusively—

- (i) as a club for or a memorial to persons who served in the First or Second World War or in any other war, hostilities or special assignment referred to in the *Patriotic Funds Act 1958*; or
- (ii) as a sub-branch of the Returned Services League of Australia; or
- (iii) by the Air Force Association (*Victoria Division*); or
- (iv) by the Australian Legion of Ex-Servicemen and Women (*Victorian Branch*).

(2) If part of any land—

(a) is vested in or owned by a person or body referred to in sub-section (1) (a); and

(b) is used exclusively for public purposes—

that part of the land is not rateable.

(3) For the purposes of sub-sections (1) (a) and (2) (b), land is not used exclusively for public or municipal purposes if—

(a) it is used for banking or insurance; or

(b) a house or flat on the land—

(i) is used as a residence; and

(ii) is exclusively occupied by persons including a person who must live there to carry out certain duties of employment; or

(c) it is used by the Metropolitan Fire Brigades Board.

(4) If part of any land is used exclusively for charitable purposes, that part of the land is not rateable.

(5) For the purposes of sub-sections (1) (b) and (4), land is not used exclusively for charitable purposes if it is in any of the following categories:

(a) Part of it is separately occupied and used for a purpose which is not exclusively charitable;

(b) A house or flat on the land—

(i) is used as a residence; and

(ii) is exclusively occupied by persons including a person who must live there to carry out certain duties of employment;

(c) It is used for the retail sale of goods;

(d) It is used to carry on a business for profit (unless that use is necessary for or incidental to a charitable purpose).

Land becoming rateable.

175. If land becomes rateable after 1 October in any financial year, the rate under this Part which is payable for that land for the financial year is an amount proportionate to the part of that financial year remaining after the land becomes rateable.

Land ceasing to be rateable.

176. If land ceases to be rateable during a financial year for which a rate under this Part has been levied on it, a Council must—

- (a) if any payment of the rate has been made, refund to the current owner of the land an amount proportionate to the part of that financial year remaining after the land ceases to be rateable; or
- (b) if none of the rate has been paid, require the person who is required to pay the rate to only pay an amount proportionate to the part of that financial year before the land ceases to be rateable.

Person acquiring rateable land.

177. A person who becomes the owner of rateable land must pay—

- (a) any rates and charges for the land which are current; and
- (b) any arrears of rates and charges for the land which are owing—

at the time that person becomes the owner of the land.

Rate records.

178. A Council must keep a record called the rate records and must enter in it—

- (a) the prescribed information; and
- (b) any other particulars it considers should be entered of land in its municipal district and the ownership of that land.

Capital Improved Value.

179. A Council must use the capital improved value system for the purpose of declaring rates under this Part.

Declaring rates.

180. (1) A Council must at least once in each year by 30 November declare the following for that year:

- (a) The amount which the Council intends to raise by general rates and service rates and charges under this Part;
- (b) Whether the general rates will be raised by the application of—

- (i) a uniform rate, with or without a minimum rate being payable; or
 - (ii) differential rates, with or without a minimum rate being payable; or
 - (iii) a combination of (i) and (ii);
 - (c) Any urban farm rate or farm rate;
 - (d) Any service rates and charges.
- (2) The Council may specify—
- (a) either generally or individually any rateable land which is to be exempt from the whole or part of the minimum rate; and
 - (b) the general rate payable on land which is exempt, being—
 - (i) in the case of a total exemption, the rate which would have been payable if there was no minimum rate; or
 - (ii) in the case of a partial exemption, the minimum rate less the amount of the exemption or the rate which would have been payable if there was no minimum rate, whichever is greater.
- (3) The Council must declare the general rate in respect of a period of time between 3 months and a year.

Uniform rates.

181. If a Council declares that general rates will be raised by the application of a uniform rate—

- (a) the Council must specify a percentage as the uniform rate; and
- (b) the general rate for any rateable land must be determined by multiplying the capital improved value of the land by that percentage.

Differential rates.

182. (1) If a Council declares that any rates under this Part will be raised by the application of differential rates—

- (a) the Council must specify the different percentages and the conditions upon which each percentage is to apply; and
- (b) the general rates for any rateable land must be determined by multiplying the capital improved value of the land by the percentage which, according to the conditions, applies to that land.

(2) A differential rate which is higher for some land in the municipal district than for other land may be made for any one or all or any combination of the following in the municipal district:

- (a) Certain wards;

- (b) Certain groups of properties;
- (c) Properties with certain uses;
- (d) Certain areas;
- (e) Land specified in a planning scheme.

(3) The highest differential rate in a municipal district must not exceed by more than 100% the lowest differential rate in the municipal district.

Minimum rate.

183. (1) If—

- (a) a Council declares a minimum amount of general rates which is payable; and
- (b) the general rates payable for any rateable land are less than the minimum amount of general rates declared for that land—

the amount of general rates payable for that land is that minimum amount, unless the land is exempt from the whole or part of the minimum rate under section 180 (2).

(2) The receipts from the minimum rate must be not more than 25% of the revenue intended to be raised by the general rates.

Urban farm and farm rates.

184. (1) A Council may make a general rate which is a farm rate on farm land and is less than the amount of the general rate on other rateable land (other than urban farm land).

(2) A Council may make a general rate which is an urban farm rate on urban farm land and is less than the amount of the general rate on other rateable land (other than farm land).

(3) When any land ceases to be urban farm land, an amount of general rates becomes payable for the land which is—

- (a) the difference between—
 - (i) the general rates payable for the land in each of the preceding 5 years; and
 - (ii) the general rates which would have been payable; or
- (b) if the Council exempts the land from all or part of the amount in paragraph (a), the amount specified by the Council as being payable.

(4) If only part of any land ceases to be urban farm land, the general rate payable for that part of the land is the same proportion of the sum referred to in sub-section (3) (a) as the valuation of that part bears to the valuation of the whole land.

Service rates and charges.

185. (1) A Council may make—

- (a) a service rate for any of the services in sub-section (2) which the Council provides in relation to any rateable land or which the Council is prepared and able to provide; or**
- (b) an annual service charge (fixed by reference to the service to be provided) for any service in sub-section (2) which the Council provides in relation to any rateable land or non-rateable land or which the Council is prepared and able to provide; or**
- (c) a combination of (a) and (b).**

(2) The services are as follows:

- (a) The provision of a water supply;**
- (b) The collection of refuse;**
- (c) The provision of sewerage services;**
- (d) Any other prescribed service.**

(3) The service rate or charge may be made for any one or all or any combination of the following in the municipal district:

- (a) Certain wards;**
- (b) Certain groups of properties;**
- (c) Properties with certain uses;**
- (d) Certain areas;**
- (e) Land specified in a planning scheme.**

Council may declare special rates.

186. (1) A Council may declare —

- (a) special rates; or**
- (b) special charges; or**
- (c) a combination of (a) and (b).**

(2) The special rates or charges may be made for land in any one or all or any combination of the following in the municipal district:

- (a) Certain wards;**
- (b) Certain groups of properties;**
- (c) Properties with certain uses;**
- (d) Certain areas;**
- (e) Land specified in a planning scheme.**

(3) A Council may only make a special rate or charge for the purposes of—

- (a) defraying any expenses; or**

(b) repaying (with interest) any advance made to or debt incurred or loan raised by the Council—

in relation to the performance of a function or the exercise of a power of the Council, if the Council considers that the performance of the function or the exercise of the power is or will be of special benefit to the persons required to pay the special rate or charge.

(4) The Council must specify—

(a) the wards, groups, uses or areas for which the special rate or charge is declared; and

(b) the land in relation to which the special rate or charge is levied; and

(c) the fund (which may include a trading fund) into which the proceeds of the special rate or charge are to be paid; and

(d) the manner in which the rate or charge will be assessed and levied; and

(e) details of the period for which the rate or charge remains in force.

(5) A Council may levy a special rate or charge by sending a notice to the person who is liable to pay it.

(6) The notice must contain—

(a) the prescribed information; and

(b) a statement about when the rates or charges are payable; and

(c) details of the period for which the rate or charge remains in force.

(7) The valuation of any rateable land used to determine the amount of a special rate or charge must be the most recent valuation of the land made for the purposes of determining the general rate.

(8) The special rate or charge must be sufficient to cover—

(a) interest which the council must pay on money borrowed on the security of the rate or charge; and

(b) repayments on any such loans; and

(c) the formation of any sinking fund formed to repay the interest or money.

Discontinuance of the works and projects for a special rate or charge.

187. After complying with the procedure for the levying of a special rate or charge a Council may—

(a) discontinue the whole or part of the works and projects for the purpose of which it is charging the rate or charge; or

- (b) resolve not to proceed with the purchase of any land for those works or projects.

Expenditure of money received from special rate or charge.

188. A Council may use the money from a special rate or charge for any or all of the following:

- (a) The works and projects for the purpose of which the rate or charge was made and the purchase of land and materials required for them (including land acquired before the Council declared the rate or charge);
- (b) Repayment of money borrowed for anything mentioned in paragraph (a) and of interest on that money;
- (c) Formation of a sinking fund formed to repay that money and interest;
- (d) Maintenance of and repair of damage to the works and projects;
- (e) The management, advertising or security of the works and projects;
- (f) Any expenses related—
 - (i) to anything mentioned in paragraphs (a) to (e); or
 - (ii) to the making of the rate or charge.

Receipt of excess money.

189. If a Council receives more money than it requires from the special rate or charge, it must refund to the current owner of the relevant land an amount proportionate to the contribution to the total excess amount.

Variation of special rate or charge.

190. A special rate or 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; and
 - (iii) the land to which it applies.

Payment of special rate or charge by lump sum.

191. A person who is liable to pay a special rate or charge may apply to the Council for permission to pay by a lump sum as determined by agreement between the Council and the person.

Public notice of certain rates and charges.

192. Within 10 days of the declaration of rates and charges under this Part (other than special rates and charges) a Council must give public notice in the prescribed form of the details of those rates and charges.

Notice of liability to pay certain rates and charges.

193. (1) A Council may levy rates and charges under this Part (other than special rates and charges) by sending one or more notices in relation to the rates or charges to the person who is liable to pay them.

(2) The notice must contain—

(a) the prescribed information; and

(b) a statement about whether the rates and charges may be paid annually, twice yearly or four times yearly.

(3) If a Council has declared more than one rate for the year, it may levy the rates as a combined rate.

(4) A Council must, as far as is practicable, levy all rates and charges under this Part which are declared in a year in the same year.

Who is liable to pay rates and charges?

194. (1) The owner of land is liable to pay the rates and charges under this Part for that land.

(2) If the owner cannot be found or identified, the occupier of the land is liable to pay the rates and charges.

(3) If there is a person who is the private occupier or lessee of the land and the land is land referred to in section 174 (1) (a) or is owned by a Council, that person is liable to pay the rates and charges.

Land which becomes rateable land or public land.

195. The following provisions apply to land under section 174 (1) (b) or 174 (1) (d) when it becomes rateable or becomes land under section 174 (1) (a) and if the Council of the municipal district in which the land is situated so directs:

(a) The person who is the purchaser or owner of that land immediately after it becomes rateable or becomes land under section 174 (1) (a) must pay to the relevant Council the sum of money specified in paragraph (b);

(b) The sum must be the difference between—

(i) the rates and charges under this Part which were paid or payable for the land for the past 5 years; and

- (ii) the rates and charges under this Part which would have been payable for the land for the past 5 years if it was then rateable.

Unpaid rates and charges are a charge on the land.

196. Subject to this Act, a rate or charge under this Part which is levied in relation to land and any costs awarded to a Council by a court or in any proceedings in relation to such a rate or charge, are a first charge on the land.

Rate and charge payments.

197. (1) Rates and charges under this Part (other than special rates and charges) are due and must be paid—

- (a) in the case of rates and charges which the Council requires to be paid annually—by the date specified in the notice requiring payment of the rates and charges, being a date not less than 28 days after the date of issue of the notice; or
- (b) in the case of rates and charges which the Council requires to be paid twice yearly or four times yearly—by the dates specified in the notice requiring payment of the rates and charges, each date being not less than 14 days after the date of issue of the notice.

(2) If a Council requires a rate or charge under this Part to be paid annually, the person liable to pay it may choose instead to pay four times yearly, and must make each payment by the date specified by the Council.

Incentives for prompt payment.

198. (1) At the meeting at which a Council declares any rates or charges under this Part, the Council may declare that incentives are to be given by it for the payment of those rates and charges before the due date and must include in the declaration details of the circumstances in which an incentive will be given.

(2) The notice of the relevant rates and charges must specify any incentives.

Payments appropriated in order of due dates.

199. Despite any direction from a person paying money for rates or charges under this Part (other than special rates and charges), a Council receiving the money may apply it—

- (a) if the rates or charges are due and payable for more than one year, towards payment, in accordance with paragraph (b), of the rates or charges which have been due or payable for the longest time; and

- (b) if the rates or charges are due and payable for one year, firstly towards the payment of rates and then towards the payment of charges, in the order in which the rates or charges became payable.

Rebates and concessions for rates and charges.

200. (1) A Council may grant a rebate or concession in relation to any rates or charges under this Part (other than special rates and charges)—

- (a) to ensure the proper development of the municipal district; or
- (b) to preserve buildings or places in the municipal district which are of historical interest; or
- (c) to restore or maintain buildings or places of historical, architectural or scientific importance in the municipal district; or
- (d) to ensure the proper development of part of the municipal district.

(2) If a person granted a rebate or concession has not complied with the terms on which the rebate or concession was granted, the Council may by a notice sent to the person—

- (a) require the payment of the whole or part of the rates or charges by a specified date; and
- (b) require the payment of a penalty under this Part for the late payment of the rates or charges, as if the rebate or concession had not been granted.

Deferred payment of rates or charges.

201. (1) A Council may defer in whole or in part the payment by a person of any rates or charges under this Part which are due and payable for a specified period and subject to any conditions determined by the Council if it considers that an application by that person shows that the payment would cause hardship to the person.

(2) On deferral of the payment the person who is liable to make the payment is not liable until the Council sends the person a notice under sub-section (3).

(3) A Council may by a notice sent to a person—

- (a) require that person to pay the whole or part of any deferred rates or charges by a specified date if—
 - (i) it considers that the person's circumstances have so changed that the payment would no longer cause hardship to the person; or
 - (ii) the person no longer owns or occupies the land in relation to which the rates or charges were levied; and

- (b) require the payment of a penalty under this Part for the late payment of the rates or charges, as if the deferral had not occurred.

Waiver of rates or charges.

202. (1) A—

(a) person who—

- (i) is suffering financial hardship; or
(ii) would suffer financial hardship if that person paid the full amount of rates and charges under this Part for which he or she is liable; or

(b) person who or body which runs a home for persons suffering financial hardship or for elderly persons—

may apply to a Council for the waiver of the whole or part of the person's or body's rates or charges under this Part or of any penalty imposed for their late payment.

(2) The Council may require the applicant—

- (a) to give further particulars; or
(b) to verify particulars—

in relation to the application.

(3) The Council may waive the whole or part of an applicant's rates or charges or a penalty.

Council may require occupier to pay rent.

203. (1) If any rates or charges under this Part are due and unpaid in relation to land, the Council may send a notice to the person who is liable to pay them.

(2) The notice must state—

- (a) that after 7 days from the date the notice is sent, the occupier of the land may be required by notice sent to that person to pay the rent then due or further rent as it falls due by that person for the land; and
(b) that the rent must be paid until the amount of the rates or charges has been paid.

(3) The Council must serve the further notice in accordance with sub-section (2).

(4) A payment of rent by a person under this section is a discharge of the debt for that rent.

(5) If a person fails to pay any or all of the rent due under this section, the Council may recover the unpaid amount as a debt due to it by that person.

Occupier who pays rates or charges.

204. (1) An occupier of any rateable land who makes any payments of rates or charges under this Part for the land which are made under section 206 is entitled to deduct the amount from the occupier's rent.

(2) Sub-section (1) does not apply if the occupier has agreed to pay those rates or charges for that land.

Invalidity of rates or charges.

205. (1) The invalidity of the whole or any part of a rate or charge under this Part does not prevent a Council from recovering it.

(2) A rate under this Part (other than a special rate) is not invalid only by reason of it being declared after 30 November.

Rate or charge unpaid for 3 months.

206. (1) If a rate or charge under this Part is unpaid for 3 months after it is due, the Council may, despite any court order for its recovery, demand in the prescribed manner from the person liable to pay it, that the rate or charge or a part of it be paid.

(2) If the rate or charge remains unpaid for a month after the demand, the Council may recover it in a Magistrates' Court or by suing for debt.

(3) If rates or charges under this Part are recovered from an owner of rateable land and an agreement with the owner of the land states that the occupier of the land must pay rates or charges for it, the owner may recover the rates or charges from the occupier in the same manner in which the owner may recover rent owing to that owner.

(4) An occupier who pays rates or charges under this section need not pay more than the amount of rent owed by the occupier at the time of the demand or the payment.

(5) Sub-section (4) does not apply—

(a) if the occupier has agreed to pay the rates or charges; or

(b) if, after the Council requests that the occupier disclose the rent and the name and address of the person to whom it is payable, the occupier does not do so.

(6) For the purposes of this section, the occupier has the burden of proof of showing that—

(a) the occupier had not agreed to pay the rates or charges; and

(b) the amount of rates or charges to be paid for land by that occupier is more than the rent owed by the occupier for the land.

Council may sell land.

207. (1) A Council may sell any rateable land or cause to be transferred to itself any rateable land for an amount equivalent to or greater than its value as determined under sub-section (3) (b), if any rates or charges under this Part which are due to the Council in relation to the land have been unpaid for at least 3 years and have not been deferred for the period for which they are unpaid.

(2) A Council must not sell or transfer the land unless within the 3 year period, the Council has at least once attempted to recover under section 206 money due it.

(3) Before selling the land or causing it to be transferred, the Council must—

- (a) ensure that public notice of its intention to do so is given for at least 4 weeks prior to the date of the proposed sale or transfer; and
- (b) obtain from a registered valuer an independent valuation of the land which is made not more than 6 months prior to the date of the proposed sale or transfer.

(4) If any person appears to have an estate or interest in the land from the register-book or any memorial of registration in the office of the Registrar-General, the following provisions apply to the sale or transfer of that land:

- (a) Before selling the land or causing it to be transferred, the Council must serve on that person a notice requiring payment of the rates and charges referred to in sub-section (1);
- (b) If the land is under the *Transfer of Land Act 1958*, when the Registrar of Titles registers a transfer of the land in exercise of the power of sale under this section, the Registrar must cancel any mortgages or charges registered as encumbrances on the land;
- (c) Despite sub-section (5), the Council must apply the proceeds of the sale of the land or the amount for which the Council accepts a transfer of the land as follows:
 - (i) Firstly, in payment of all expenses incurred in connection with the sale or transfer;
 - (ii) Secondly, the payment of the rates and charges due on the land;
 - (iii) Thirdly, the discharge of any mortgages and charges, whether registered or not, over which the charge of the Council has priority, according to the priority of those mortgages and charges.
- (c) The sale or transfer of the land is free from all estates and interests over which the Council's charge has priority.

(5) If the proceeds of the sale of the land are greater than the amount of the rates and charges due to the Council on the land, the Council must, subject to sub-section (7), retain the surplus amount and any interest it earns for the owner of the land.

(6) If the amount for which the Council proposes to accept a transfer of the land is greater than the amount of the rates and charges due to the Council on the land, the Council must (subject to sub-section (7)) only pay for the transfer the difference between the amount due and the amount to be paid for the transfer.

(6) The Council must deduct from—

(a) the proceeds of sale of the land; or

(b) the amount to be paid by the Council under the transfer of the land to itself—

all expenses incurred in connection with the sale or transfer.

Submissions on decisions under this Part.

208. A person may make a submission under section 248 relating to—

(a) the declaration of a differential basis of rating or the exclusion of certain land by a Council from a category of a differential basis of rating or the cancellation of differential rating; or

(b) a Council's failure to classify certain land as farm land or urban farm land or the cancellation of the classification of certain land; or

(c) a special rate or charge—

(i) in relation to a Council's declaration of the rate or charge; or

(ii) in relation to the application of the rate or charge to certain land; or

(iii) in relation to the amount of the rate or charge; or

(iv) in relation to the basis of calculation of the rate or charge; or

(v) in relation to the special benefit which the Council considers will result from the rate or charge.

Appeal to Land Valuation Appeals Board.

209. (1) This section applies if a person has made a submission under section 248 containing any objection relating to a matter in section 208 (a) or 208 (b).

(2) If a person—

(a) has objected unsuccessfully; or

(b) is adversely affected by a Council's decision on any objection—

the person may appeal to a Land Valuation Appeals Board under Part III. of the *Valuation of Land Act 1960*.

Appeal to County Court.

210. (1) A person who is aggrieved by a rate or charge under this Part or under any other Act or by anything included or excluded from such a rate or charge (other than a matter to which an objection may be made under Part III. of the *Valuation of Land Act 1960*) may—

(a) in February or March after receiving notice of the rate or charge; or

(b) if the notice is received between 1 February and 30 September, within 2 months after receiving the notice—

give to the relevant Council a notice in the prescribed form of that person's intention to appeal to the County Court.

(2) The person may only appeal on one or more of the following grounds of appeal—

(a) In the case of a rate, that the land in respect of which the rate was levied was not rateable land;

(b) In the case of a rate, that the Council—

(i) did not prepare any necessary estimate; or

(ii) did not give notice of intention to make the rate—
in accordance with this Act;

(c) That the rate or charge assessment was calculated incorrectly;

(d) That the person levied with the rate or charge was not liable to be rated.

(3) The County Court may make rules about—

(a) the procedure for applying to the Court; and

(b) proceedings for hearing the application; and

(c) orders, including orders as to costs.

(4) If the County Court quashes a rate or charge made in a particular year on the ground in sub-section (2) (b), the Council may make and levy a new rate or charge for that year even if the year has ended.

Appeal to Planning division.

211. (1) A person who is aggrieved by a Council's imposition of a special rate or charge on that person may appeal to the Planning division of the Administrative Appeals Tribunal.

(2) The person must appeal—

(a) within 2 months after the date of issue of a notice to the person of the special rate or charge; and

(b) on the ground that—

- (i) the works and projects; or
- (ii) the period of maintenance—

for the purposes of which the special rate or charge was imposed are not or will not provide a special benefit to that person.

(3) The Planning division—

(a) must hear and determine the appeal; and

(b) may —

(i) vary or quash the special rate or charge made by the Council; or

(ii) dismiss the appeal or make an order confirming the special rate or charge.

(4) The Planning division quashes a special rate or charge made in a particular year, the Council may make and levy a new special rate or charge for that year even if the year has ended.



*Leave out the punctuation. It will save paper and keep the rates down.

FACES GOING PLACES

MEMBERSHIP CERTIFICATES

Certificates of membership are available to Fellows and Members for \$10.00.

Orders can be made through Bill Cane at the City of Knox - Phone : (03) 220 8222.

Beverley Cottell - New Assistant Rate Collector at the City of Fitzroy.

Noel Buck - Formally Rate Collector City of Northcote, now Rate Collector at the City of Nunawading.

IF YOU HAVE ANY ITEMS OF INFORMATION THAT MAY BE OF INTEREST PLEASE SEND IT TO :

GEOFF FLEMING
C/- CITY OF OAKLEIGH
P O BOX 21
OAKLEIGH 3166

SO IT MAY BE INCLUDED IN A FUTURE NEWSLETTER.

LOCAL GOVERNMENT LEGISLATION - A NEW ERA FOR MUNICIPAL COUNCILS

During 1986, continuing progress was made toward providing municipal councils with modern powers and functions.

Two important pieces of legislation were passed by Parliament.

The first was Local Government (General Amendment) Act. The Act has three main purposes:

- (a) to give municipal councils greater discretion in the carrying out of functions;
- (b) to increase the accountability of municipal councils; and
- (c) generally, to increase the efficient operation of local government

The most important amendment to the Local Government Act was provided in section 4. This section provides that a council may undertake or assist in any activity, business or enterprise to promote the economic development of tourism or employment within the municipality, to provide or assist in the provision of services to the people of or a class of people in the municipality or to otherwise benefit the municipality.

This provision provides a marked change in emphasis for municipalities and will permit them to enter into joint ventures and other arrange-

ments that were previously only authorised to some municipalities by special statute.

To assist councils in assessing whether they wish to operate under these new and innovative provisions, guidelines are presently being developed which will be made available as soon as possible.

The Act contains a number of other important initiatives, advice on which will be provided by the Department.

The second Act passed by Parliament during the year was the Local Government Acts (Miscellaneous Amendments) Act.

This Act makes amendments to a number of Acts other than the *Local Government Act*. Details of the initiatives in this Act will be provided by the Department. Of particular note is the further extension of the Government's policy of providing greater freedom of operation for municipal councils by permitting municipalities to fix fees which were previously fixed by the Governor in Council.

While these two Acts are of considerable benefit to councils, the most important initiative during the year has been the preparation of the new Local Government Bill. This Bill completely revises the constitutional and functional law relating to the operation of local government in Victoria. The Bill will provide a new set of laws applying to local government which takes into account the particular needs of local government in Victoria - probably the first time that local government law has been prepared especially for Victorian conditions.

Originally, it was intended that the Bill would be introduced into Parliament at the end of the Sittings that are just completed, but the complexity of legislation has meant that draft proposals for the Bill will be released to councils, interest groups and the public during December 1986. This process will enable consideration of the draft

proposals prior to the introduction of a Bill into Parliament during the Autumn 1987 Sittings.

The new Local Government Bill is central to the operation of local government, it will be of vital importance to all Victorians. Therefore, the Minister has requested all councils give close consideration to the draft proposals for the Bill. It is important that councils involve their communities in the consideration of the new legislation so that the Government can finalise the Bill having benefited from a wide range of comments.

WORKING PARTY ON FINANCIAL RELATIONSHIPS BETWEEN THE STATE AND LOCAL GOVERNMENTS IN VICTORIA

A working party has been established to report to the Minister for Local Government on the inter-governmental aspects of local government finance in Victoria and to recommend improvements to the general financial relationships and mechanisms that exist between the State Government and local government in Victoria.

The terms of reference of the Working Party are to consider and report upon:

(a) the purposes and functions of current sources of revenue available to local government from the State and under the *Local Government Act*;

(b) the need for accountability and responsibility at all levels of government;

(c) the need for and feasibility of uniform accounting standards and practices for local government;

(d) the practices and procedures adopted by local government in relation to borrowings by local government and the effects of any constraints imposed by the Commonwealth's guidelines with regard to such

borrowings;

(e) any influence that developments in Commonwealth/State financial relationships may have on State/Local financial relationships;

(f) the implications of:

(i) the difference in functions between municipalities in Victoria;

(ii) economic efficiency of the local government sector;

(iii) equity as between residents of different municipalities;

(g) alternative methods of funding joint programs consistent with the objective of increased devolution of responsibility to local government;

(h) alternative and/or sources of revenue at the community level which might be utilized by local government.

The Working Party is under the Chairmanship of Mr Neil Pope, M.P. and comprises membership of a number of bodies involved in local government as follows:

Victorian Institute of Rate Administrators

Local Government Engineers Association

Institute of Municipal Management

Metropolitan Municipal Association

Municipal Association of Victoria

Municipal Officers Association

Municipal Employees Union

Australian Institute of Valuers

In addition, there will be representation from the Local Government Department, Department of Premier and Cabinet and Department of Management and Budget as well as interaction from other relevant State Government Departments.

The first meeting was held on 11 December 1986 and municipalities will be invited to make submissions to the working party prior to the next meeting in February. It is intended that the Working Party will have some meetings in regional centres.