

LOCAL GOVERNMENT (FURTHER AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 10 September, 1970.*

No. 1.—Page 8, clause 3, line 33. *Omit* “both to own and reside on”, *insert* “to own”.

No. 2.—Page 10, clause 3, line 7. *Omit* “both owns and resides on”, *insert* “owns”.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
for Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 August, 1970.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 10 September, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1970.

An Act to prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

BE

18313 279—A

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Local Government (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Local Government Short title.
(Further Amendment) Act, 1970".

2. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

(a) by inserting at the end of section 249c the following new subsection:—

Sec. 249c.
(Broken
bottles,
etc.)

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

(b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this";

Sec. 278.
(Applica-
tion.)

(c) by inserting next after Division 5 of Part X the following new Division:—

New
Division
5A of
Part X.

DIVISION 5A.—Depositing Litter Prohibited.

289A. (1) In this Division—

Interpre-
tation.

"authorised person" means—

(a) a servant appointed by the council to be an authorised person for the purposes of this Division;

(b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

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Local Government (Further Amendment).

a statutory body representing the Crown or the Forestry Commission of New South Wales; and

(c) a member of the police force;

5 "litter" includes any kind of rubbish, refuse, or
garbage and any article or matter that when
left, deposited, dropped or thrown, or
caused to be deposited, left, dropped or
10 thrown, on or on to a public place or public
reserve causes, contributes to, or tends to
lead to the defacement or defilement of that
public place or public reserve;

15 "public place" includes a State forest or a flora
reserve within the meaning of the Forestry
Act, 1916, a national park, state park,
historic site or aboriginal area within the
meaning of the National Parks and Wildlife
Act, 1967, and a nature reserve within the
20 meaning of the Fauna Protection Act,
1948.

(2) A reference in this Division to
depositing litter on any place includes a reference
to leaving, dropping or throwing litter on or on to
that place.

25 (3) A reference—

(a) in section six hundred and thirty-five of this
Act to a servant of the council includes a
reference to an authorised person referred
to in paragraph (b) of the definition of
30 "authorised person" in subsection one of
this section;

(b) in section six hundred and forty of this
Act—

35 (i) to the council is, in relation to
proceedings instituted or com-
menced by or under the direction or
on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

5 (ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

10 (c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a
15 person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person
20 finds a person committing such an offence, a reference to the employer of that authorised person.

289B. (1) A person shall not deposit any litter ^{Littering prohibited.} on a public place or public reserve.

25 (2) Subsection one of this section does not operate to prohibit a person—

(a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;

30 (b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the
35 council;

(c)

Local Government (Further Amendment).

- 5 (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- 10 (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- 15 (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- 20 (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- 25 (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

30 (4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- 35 (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

5 289C. (1) Where it appears to an authorised person—

Penalty
notices
for
littering.

- (a) that another person has committed an offence under section 289B of this Act; and
- 10 (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

15 the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being
20 a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

25 (2) Any notice under subsection one of this section may be served personally or by post.

(3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and
- 30 (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

5 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

10 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

15 289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

Additional powers of courts.

20 (2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

30 (3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

- 5 (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :—

(r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289c of this Act;

- 10 (e) by inserting in subsection one of section six hundred and forty-four after the words "of this Act" the words "or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division".

- 15 3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :—

Further amendment of Act No. 41, 1919.
New Division 7A of Part XIIA.

DIVISION 7A.—Objections to certain development.

- 20 342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall—

- 25 (a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it both to own and reside on to own land the enjoyment of which, in the opinion of the responsible
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Local Government (Further Amendment).

responsible authority or the council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;

- 5 (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and
- (c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.
- 10

(2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

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(3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

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(4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

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(5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

279—B

Local Government (Further Amendment).

application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- 5 (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who ~~both owns and resides on~~ owns land and who contends that his enjoyment of the land will be detrimentally affected if the development the subject of the application is carried out.

10

(6) The responsible authority or the council to which any such application has been made—

- 15 (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- 20 (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to
- 25 have been refused.
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(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be heard as if he were a party to the appeal.

35

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

[10c]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
for Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 19 August, 1970.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

*Legislative Council Chamber,
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New South Wales



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Act No. , 1970.

An Act to prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

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NOTE.—The words to be *omitted* are *ruled through*; those to be *inserted* are printed in **black letter**.

Local Government (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Local Government (Further Amendment) Act, 1970". Short title.

2. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

10 (a) by inserting at the end of section 249C the following new subsection :— Sec. 249c.
(Broken
bottles,
etc.)

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

15 (b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this"; Sec. 278.
(Applica-
tion.)

20 (c) by inserting next after Division 5 of Part X the following new Division :— New
Division
5A of
Part X.

DIVISION 5A.—Depositing Litter Prohibited.

289A. (1) In this Division—

"authorised person" means—

Interpre-
tation.

25 (a) a servant appointed by the council to be an authorised person for the purposes of this Division;

(b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

Local Government (Further Amendment).

a statutory body representing the Crown or the Forestry Commission of New South Wales; and

(c) a member of the police force;

5 "litter" includes any kind of rubbish, refuse, or
garbage and any article or matter that when
left, deposited, dropped or thrown, or
caused to be deposited, left, dropped or
10 thrown, on or on to a public place or public
reserve causes, contributes to, or tends to
lead to the defacement or defilement of that
public place or public reserve;

15 "public place" includes a State forest or a flora
reserve within the meaning of the Forestry
Act, 1916, a national park, state park,
historic site or aboriginal area within the
meaning of the National Parks and Wildlife
Act, 1967, and a nature reserve within the
20 meaning of the Fauna Protection Act,
1948.

(2) A reference in this Division to
depositing litter on any place includes a reference
to leaving, dropping or throwing litter on or on to
that place.

25 (3) A reference—

(a) in section six hundred and thirty-five of this
Act to a servant of the council includes a
reference to an authorised person referred
to in paragraph (b) of the definition of
30 "authorised person" in subsection one of
this section;

(b) in section six hundred and forty of this
Act—

35 (i) to the council is, in relation to
proceedings instituted or com-
menced by or under the direction or
on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

5 (ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

10 (c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a
15 person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person
20 finds a person committing such an offence, a reference to the employer of that authorised person.

289B. (1) A person shall not deposit any litter ^{Littering prohibited.} on a public place or public reserve.

25 (2) Subsection one of this section does not operate to prohibit a person—

- (a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;
- 30 (b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the
35 council;

(c)

Local Government (Further Amendment).

- 5 (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- 10 (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- 15 (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- 20 (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- 25 (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

30 (4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- 35 (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

(d) the place where litter is deposited; or

(e) such other factors as may be specified in the ordinance.

289c. (1) Where it appears to an authorised person— Penalty
notices
for
littering.

(a) that another person has committed an offence under section 289B of this Act; and

(b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

(2) Any notice under subsection one of this section may be served personally or by post.

(3) Any person served with a notice under subsection one of this section—

(a) shall have the right to decline to be dealt with under this section; and

(b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

5 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

10 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same
15 occurrence.

289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by
20 the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose
25 behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

**Additional
powers of
courts.**

30 (2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

35 (3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

- 5 (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :—

(r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289C of this Act;

- 10 (e) by inserting in subsection one of section six hundred and forty-four after the words "of this Act" the words "or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division".

- 15 3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :—

Further amendment of Act No. 41, 1919.
New Division 7A of Part XIIA.

DIVISION 7A.—Objections to certain development.

- 20 342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall—

- 25 (a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it both to own and reside on to own land the enjoyment of which, in the opinion of the responsible
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Objections to residential flat buildings and certain other development.

Local Government (Further Amendment).

responsible authority or the council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;

- 5 (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and
- (c) after doing so, cause notice of such application to be published in a newspaper circulating in the
- 10 area in which the land is situated.

(2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata

15 plan the land comprised in which adjoins that other land.

(3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible

20 authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

(4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

25 30 35

(5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

Local Government (Further Amendment).

application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- 5 (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who ~~both owns and resides on~~ owns land and who contends that his enjoyment of the land will be detrimentally affected if the development the subject of the application is carried out.

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(6) The responsible authority or the council to which any such application has been made—

- 15 (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- 20 (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to have been refused.

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(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be heard as if he were a party to the appeal.

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depositing litter on any place includes a reference
to leaving, dropping or throwing litter on or on to
that place.

25 (3) A reference—

(a) in section six hundred and thirty-five of this
Act to a servant of the council includes a
reference to an authorised person referred
to in paragraph (b) of the definition of
30 "authorised person" in subsection one of
this section;

(b) in section six hundred and forty of this
Act—

35 (i) to the council is, in relation to
proceedings instituted or com-
menced by or under the direction or
on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

5 (ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

10 (c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a
15 person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person
20 finds a person committing such an offence, a reference to the employer of that authorised person.

289B. (1) A person shall not deposit any litter **Littering prohibited.**
on a public place or public reserve.

25 (2) Subsection one of this section does not operate to prohibit a person—

(a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;

30 (b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the
35 council;

(c)

Local Government (Further Amendment).

5

(c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;

10

(d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or

15

(e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

20

(a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or

25

(b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

30

(4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

35

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

5 289c. (1) Where it appears to an authorised person— Penalty
notices
for
littering.

- (a) that another person has committed an offence under section 289B of this Act; and
- 10 (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this sub-section,

15 the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being a servant or employee of the employer of the
20 authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

25 (2) Any notice under subsection one of this section may be served personally or by post.

 (3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and
- 30 (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

5 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

10 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

15 289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

Additional powers of courts.

20 (2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

25 (3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

- (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :—
- (r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289c of this Act;
- (e) by inserting in subsection one of section six hundred and forty-four after the words "of this Act" the words "or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division".

3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIIa the following new Division :—

Further amendment of Act No. 41, 1919. New Division 7A of Part XIIIa.

DIVISION 7A.—Objections to certain development.

- 342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall—
- (a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it both to own and reside on land the enjoyment of which, in the opinion of the responsible authority

Objections to residential flat buildings and certain other development.

Local Government (Further Amendment).

authority or the council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;

- 5 (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and
- (c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.

10 (2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

15 (3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

20 (4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

25 (5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

Local Government (Further Amendment).

application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- 5 (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- 10 (b) who both owns and resides on land and who contends that his enjoyment of the land will be detrimentally affected if the development the subject of the application is carried out.

(6) The responsible authority or the council to which any such application has been made—

- 15 (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- 20 (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- 25 (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to have been refused.
- 30

(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be heard as if he were a party to the appeal.

35

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

No. , 1970.

A BILL

To prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

[MR MORTON—11 *August*, 1970.]

BE

Local Government (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Local Government (Further Amendment) Act, 1970". Short title.

2. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

10 (a) by inserting at the end of section 249C the following new subsection :— Sec. 249c.
(Broken
bottles,
etc.)

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

15 (b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this"; Sec. 278.
(Applica-
tion.)

20 (c) by inserting next after Division 5 of Part X the following new Division :— New
Division
5A of
Part X.

DIVISION 5A.—Depositing Litter Prohibited.

289A. (1) In this Division—

Interpre-
tation.

"authorised person" means—

25 (a) a servant appointed by the council to be an authorised person for the purposes of this Division;

(b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

Local Government (Further Amendment).

a statutory body representing the Crown or the Forestry Commission of New South Wales; and

(c) a member of the police force;

5 "litter" includes any kind of rubbish, refuse, or
garbage and any article or matter that when
left, deposited, dropped or thrown, or
caused to be deposited, left, dropped or
10 thrown, on or on to a public place or public
reserve causes, contributes to, or tends to
lead to the defacement or defilement of that
public place or public reserve;

"public place" includes a State forest or a flora
reserve within the meaning of the Forestry
15 Act, 1916, a national park, state park,
historic site or aboriginal area within the
meaning of the National Parks and Wildlife
Act, 1967, and a nature reserve within the
meaning of the Fauna Protection Act,
20 1948.

(2) A reference in this Division to
depositing litter on any place includes a reference
to leaving, dropping or throwing litter on or on to
that place.

25 (3) A reference—

(a) in section six hundred and thirty-five of this
Act to a servant of the council includes a
reference to an authorised person referred
to in paragraph (b) of the definition of
30 "authorised person" in subsection one of
this section;

(b) in section six hundred and forty of this
Act—

(i) to the council is, in relation to
35 proceedings instituted or com-
menced by or under the direction or
on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

5 (ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

10 (c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a
15 person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person
20 finds a person committing such an offence, a reference to the employer of that authorised person.

289B. (1) A person shall not deposit any litter **Littering prohibited.**
on a public place or public reserve.

25 (2) Subsection one of this section does not operate to prohibit a person—

(a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;

30 (b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the
35 council;

(c)

Local Government (Further Amendment).

- 5 (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- 10 (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- 15 (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- 20 (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- 25 (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

30 (4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- 35 (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

5 289c. (1) Where it appears to an authorised person— Penalty notices for littering.

- (a) that another person has committed an offence under section 289B of this Act; and
- (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

10 the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

15 (2) Any notice under subsection one of this section may be served personally or by post.

20 (3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and
- (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

5 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

10 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

15 289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

Additional powers of courts.

20 (2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

25 (3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

- (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :— (Sec. 303. (Ordinances.)
- (r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289c of this Act;
- (e) by inserting in subsection one of section six hundred and forty-four after the words "of this Act" the words "or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division". (Sec. 644. (Demanding name of offender.)

3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :— (Further amendment of Act No. 41, 1919. New Division 7A of Part XIIA.

DIVISION 7A.—Objections to certain development.

- (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall— (Objections to residential flat buildings and certain other development.
- (a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it both to own and reside on land the enjoyment of which, in the opinion of the responsible authority

Local Government (Further Amendment).

authority or the council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;

5 (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and

(c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.

10 (2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

15 (3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

20 (4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

25 (5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

279—B

Local Government (Further Amendment).

application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- 5 (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who both owns and resides on land and who contends that his enjoyment of the land will be detrimentally affected if the development the
- 10 subject of the application is carried out.

(6) The responsible authority or the council to which any such application has been made—

- 15 (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any
- 20 objector of its decision on the application; and
- (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the applica-
- 25 tion is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to
- 30 have been refused.

(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be

35 heard as if he were a party to the appeal.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970
[10c]

LOCAL GOVERNMENT (FURTHER AMENDMENT) BILL, 1970

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to make it an offence for a person to deposit litter on a public place or public reserve in certain circumstances;
- (b) to enable penalties not exceeding three hundred dollars to be imposed for certain kinds of offences referred to in paragraph (a) above;
- (c) to provide for the issue by authorised persons, as defined in the Bill, of penalty notices for any such offences and for any person served with such a notice to elect to be dealt with in the prescribed manner;
- (d) to require notice of applications under prescribed planning schemes or interim development orders for consent to the erection of residential flat buildings and the carrying out of other proclaimed development to be given to certain persons and to be advertised, and to confer on certain persons the right to object to the erection of the residential flat building or the carrying out of that other development;
- (e) to make other provisions of a consequential or ancillary character.

No. , 1970.

A BILL

To prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

[MR MORTON—11 *August*, 1970.]

BE

Local Government (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Local Government (Further Amendment) Act, 1970". Short title.

2. The Local Government Act, 1919, is amended—

Amendment
of Act No.
41, 1919.

(a) by inserting at the end of section 249c the following new subsection :—

Sec. 249c.
(Broken
bottles,
etc.)

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

(b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this";

Sec. 278.
(Applica-
tion.)

(c) by inserting next after Division 5 of Part X the following new Division :—

New
Division
5A of
Part X.

DIVISION 5A.—Depositing Litter Prohibited.

289A. (1) In this Division—

"authorised person" means—

Interpre-
tation.

(a) a servant appointed by the council to be an authorised person for the purposes of this Division;

(b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

a

Local Government (Further Amendment).

a statutory body representing the
Crown or the Forestry Commission
of New South Wales; and

(c) a member of the police force;

5 "litter" includes any kind of rubbish, refuse, or
garbage and any article or matter that when
left, deposited, dropped or thrown, or
caused to be deposited, left, dropped or
10 thrown, on or on to a public place or public
reserve causes, contributes to, or tends to
lead to the defacement or defilement of that
public place or public reserve;

15 "public place" includes a State forest or a flora
reserve within the meaning of the Forestry
Act, 1916, a national park, state park,
historic site or aboriginal area within the
meaning of the National Parks and Wildlife
20 Act, 1967, and a nature reserve within the
meaning of the Fauna Protection Act,
1948.

(2) A reference in this Division to
depositing litter on any place includes a reference
to leaving, dropping or throwing litter on or on to
that place.

25 (3) A reference—

(a) in section six hundred and thirty-five of this
Act to a servant of the council includes a
reference to an authorised person referred
to in paragraph (b) of the definition of
30 "authorised person" in subsection one of
this section;

(b) in section six hundred and forty of this
Act—

35 (i) to the council is, in relation to
proceedings instituted or com-
menced by or under the direction or
on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

5 (ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

10 (c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a
15 person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person
20 finds a person committing such an offence, a reference to the employer of that authorised person.

289B. (1) A person shall not deposit any litter **Littering prohibited.**
on a public place or public reserve.

25 (2) Subsection one of this section does not operate to prohibit a person—

(a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;

30 (b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the
35 council;

(c)

Local Government (Further Amendment).

- 5 (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- 10 (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- 15 (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- 20 (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- 25 (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

30 (4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- 35 (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

289C. (1) Where it appears to an authorised person— Penalty notices for littering.

- (a) that another person has committed an offence under section 289B of this Act; and

- (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

(2) Any notice under subsection one of this section may be served personally or by post.

(3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and

- (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

5 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

10 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

15 289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

Additional powers of courts.

20 (2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

25 (3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

- 5 (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :— (Sec. 303. (Ordinances.)
- (r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289C of this Act;
- 10 (e) by inserting in subsection one of section six hundred and forty-four after the words "of this Act" the words "or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division". (Sec. 644. (Demanding name of offender.)

- 15 3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :— Further amendment of Act No. 41, 1919. New Division 7A of Part XIIA.

DIVISION 7A.—Objections to certain development.

- 20 342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall— Objections to residential flat buildings and certain other development.
- 25
- 30 (a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it both to own and reside on land the enjoyment of which, in the opinion of the responsible authority

Local Government (Further Amendment).

authority or the council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;

5 (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and

(c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.

10 (2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

15 (3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

20 (4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

25 (5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

Local Government (Further Amendment).

application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- 5 (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who both owns and resides on land and who contends that his enjoyment of the land will be detrimentally affected if the development the
- 10 subject of the application is carried out.

(6) The responsible authority or the council to which any such application has been made—

- 15 (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the
- 20 application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- (c) shall, where it does not so deal with the applica-
- 25 tion and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so
- 30 dealt with or that the application is deemed to have been refused.

(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be

35 heard as if he were a party to the appeal.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 1, 1970.

An Act to make further provisions with respect to the powers, authorities, duties and functions of councils; for this and other purposes to amend the Local Government Act, 1919, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 13th March, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Local Government Short title. (Amendment) Act, 1970".

Local Government (Amendment).

(2) The Local Government Act, 1919, is in this Act referred to as the Principal Act.

Amendment
of Act No.
41, 1919.

Part IV.

(The
Councils
of Cities,
Municipalities,
and Shires.)

Sec. 28.

(Travelling
expenses.)

2. Part IV of the Principal Act is amended—

(a) by inserting at the end of subsection one of section twenty-eight the following new paragraphs :—

(g) where the council is a member of The Australian Gas Association, to and from the annual or regional conventions of such Association;

(h) in such cases as may be prescribed, to and from the periodical conferences or meetings of such other associations or organisations as may be prescribed.

Sec. 28A.

(Insurance
of members.)

(b) by omitting subsections one and (1A) of section 28A and by inserting in lieu thereof the following subsections :—

(1) The council may insure or may itself provide for the insurance of members of the council against personal injury, whether fatal or not, arising out of or in the course of the carrying out by such member of any business of the council or the performance by such member of any function in his capacity as a member of the council.

(1A) The council may insure or may itself provide for the insurance of any person who is not the holder of civic office and who has been elected or appointed as a member of any committee constituted under this Act and as such member is authorised to exercise or perform, otherwise than as a servant, any power, authority, duty or function
of

Local Government (Amendment).

of the council against any personal injury, whether fatal or otherwise, arising out of or in the course of the exercise or performance by that person of any such power, authority, duty or function.

3. Part V of the Principal Act is amended—

Further
amendment
of Act No.
41, 1919.
Part V.
(Electoral
Provisions.)

- (a) (i) by inserting next after subsection one of section sixty-four the following new subsection :—

(1A) The council may cause a roll of electors to be prepared in accordance with this Division for an extraordinary election which is held not more than six months after an election for which a roll has been prepared under subsection one of this section.

- (ii) by omitting from subsection four of the same section the words "shall be the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election" and by inserting in lieu thereof the following words :—

shall be—

- (a) where the council has not caused a roll of electors to be prepared in accordance with this Division for that extraordinary election, the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election; or

- (b) where the council has caused such a roll to be so prepared, that roll.

(b)

Local Government (Amendment).

Sec. 65A.
(Preparation of roll of electors.)

(b) (i) by omitting from subsection seven of section 65A the words "The roll of electors" and by inserting in lieu thereof the words "Except as provided in subsection eight of this section, the roll of electors";

(ii) by inserting at the end of the same section the following new subsection :—

(8) The council may cause a roll of electors to be prepared in accordance with this Division for a poll and where it does so that roll shall be used for the poll.

Further amendment of Act No. 41, 1919.
Part VII.
(Finance.)

4. (1) Part VII of the Principal Act is amended—

Sec. 160.
(Certificate as to amount due.)

(a) by inserting next after paragraph (b) of subsection three of section one hundred and sixty the following new paragraph :—

(c) where the person, appearing from any of the council's records to be the owner of the land at the date of the certificate, acquired the land pursuant to Division 5 of Part XXX of this Act, that that person is shown in those records as the owner of the land.

Sec. 160E.
(Rating of certain classes of lease from the Crown.)

(b) by inserting in subsection three of section 160E after the words "unimproved rating factor and" the words ", where the valuation includes a valuation of the improved capital value,";

Sec. 174.
(Limited overdrafts.)

(c) (i) by omitting from paragraph (b) of subsection two of section one hundred and seventy-four the following words :—

In calculating the limit of overdraft in respect of a fund any sum received by the council from the Government or Main Roads

Board

Local Government (Amendment).

Board as a grant and credited to such fund, except any sum received as endowment under Division 5 of Part VII of this Act, shall be excluded.

- (ii) by omitting subsections (2A) and three of the same section and by inserting in lieu thereof the following subsections :—

(2A) Where the Minister is of the opinion that special circumstances make it expedient so to do, he may, on the application of the council, from time to time fix the amount which may, in respect of any fund, be borrowed by the council by way of overdraft.

(3) No greater sum shall be borrowed under this section than—

(a) where the amount that may be borrowed by the council in respect of a fund has not been fixed by the Minister under subsection (2A) of this section—the amount stated in the certificate of the auditor of the council as being the sum which may be borrowed within the limits imposed by subsection two of this section; or

(b) where the amount that may be so borrowed is so fixed—the amount so fixed.

- (d) (i) by omitting subsection one of section 178A and by inserting in lieu thereof the following subsection :—
- Sec. 178A.
(Advances for works applied for by ratepayer or occupier.)

(1) Subject to this section the council may, without obtaining any approval under section one hundred and seventy-three of this Act, accept an advance not exceeding ten thousand dollars from a ratepayer or the occupier of any land within the area of the council or from

the

Local Government (Amendment).

the owner or occupier of, or the person liable for payment of rates on, land outside the area of the council for the purpose of carrying out any works that the council is authorised to carry out and that are applied for by such ratepayer, owner, occupier or other person as the case may be.

- (ii) by omitting subsections three and four of the same section and by inserting in lieu thereof the following subsections :—

(3) The terms of the loan shall include provision for repayment within fifteen years from the day on which the loan is made.

(4) The council shall not accept any such advance if, by doing so, the amount owing by the council under this section would exceed ten per centum of the total revenue of such council for the preceding year, or such greater amount as the Minister may from time to time determine.

Sec. 200E.
(Exchange
stock, etc.)

- (e) by omitting section 200E.

(2) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced on the seventeenth day of April, one thousand nine hundred and sixty-nine.

Further
amendment
of Act No.
41, 1919.
Part IX.
(Public
Roads.)
Sec. 229.
(Width of
new roads.)

5. Part IX of the Principal Act is amended—

- (a) (i) by inserting in subsection two of section two hundred and twenty-nine after the words "the council may" the words "open or";
- (ii) by omitting subsection three of the same section;

(b)

Local Government (Amendment).

- (b) by omitting from subsection one of section 241A Sec. 241A. the words "cleansing of any such private thorough- (Private thorough-fare.) fare the council may itself bear the cost of such cleansing" and by inserting in lieu thereof the words "carrying out of any such work, the council may itself bear the cost of such work";
- (c) (i) by inserting in subsection one of section 267B Sec. 267B. after the words "or has" the words "or have"; (Removal of derelict vehicles and the remains of vehicles from public roads.)
- (ii) by omitting from the same subsection the words "the council may seize and take charge of and remove or tow away or cause to be removed or towed away such vehicle or remains" and by inserting in lieu thereof the words "the council may cause the vehicle or remains to which the notice refers to be examined by a servant of the council duly appointed for the purpose by resolution of the council and, if that servant is of opinion that the cost of towing or removing the vehicle or remains to any place referred to in paragraph (b) of this subsection will be—
- (a) greater than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains and cause the vehicle or remains to be destroyed or otherwise disposed of; or
- (b) equal to or less than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains to a place set apart by the council";

(iii)

Local Government (Amendment).

- (iii) by omitting subsection two of the same section ;
- (iv) by omitting from subsection three of the same section the word "two" and inserting in lieu thereof the word "one";
- (v) by inserting in subsection four of the same section after the word "seized" the words "under paragraph (b) of subsection one of this section";
- (vi) by inserting at the end of the same section the following new subsection :—

(5) In this section, a reference to a vehicle or the remains of a vehicle includes a reference to any goods or other things upon or within the vehicle or remains.

Sec. 270C.
(Interpre-
tation.)

- (d) by omitting from section 270C the definition of "Parking meter" and by inserting in lieu thereof the following definition :—

"Parking meter" means a device that is installed in a metered space and that is designed to indicate or is capable of indicating whether the fee or charge fixed in respect of any vehicle or horse standing or waiting in that metered space has been paid and includes the stand upon which a parking meter is erected.

New sec.
270S.

- (e) by inserting next after section 270R the following new section :—

Penalty
notices for
certain
offences.
cf. Act No.
5, 1909,
s. 18B.

270S. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 270R of this Act is guilty of, any offence against any ordinance made under subsection four of section two hundred and seventy-seven of this Act the proper servant may serve a notice on that person to the effect that if that person does not desire to have the matter determined by a court,
that

Local Government (Amendment).

that person may pay to a servant of that council specified in the notice within the time specified therein an amount of penalty prescribed for the offence if dealt with under this section.

(2) Any notice under subsection one of this section—

(a) may be served personally or by post; or

(b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 270R of this Act, may be addressed to the owner without naming him or stating his address and may be served by leaving it on or attaching it to the vehicle.

(3) Any person alleged to have committed or to be guilty of an offence to which subsection one of this section applies shall have the right to decline to be dealt with under this section.

Any person who fails to pay the penalty within the time specified in the notice given to him under subsection one of this section or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

(4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

(5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(6)

Local Government (Amendment).

(6) The council may by resolution—

- (a) fix the amount of penalty payable under this section for any offence referred to in subsection one of this section, not exceeding the maximum penalty for the offence imposed by or under this Act;
- (b) for the purposes of this section, fix different amounts of penalties for different offences or classes of offences or for offences or classes of offences having regard to the circumstances thereof or offences or classes of offences committed in different areas provided by the council under section 270Q of this Act.

(7) The provisions of this section are supplemental to and not in derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

6. Part X of the Principal Act is amended—

Further amendment
of Act No.
41, 1919.

Part X.

(Public
Health,
Safety,
and Con-
venience.)

Sec. 282.

(Keeping,
removal,
and de-
struction.)

- (a) by inserting at the end of paragraph (b) of subsection two of section two hundred and eighty-two the words “and the contents of any septic tank, septic closet, and chemical closet”;
- (b) by inserting at the end of paragraph (c) of the same subsection the words “and the contents of any sullage holding tank, sullage pit, and grease trap”.

Local Government (Amendment).

7. Part XI of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XI. (Building Regulation.)

- (a) (i) by inserting next after paragraph (g) of subsection one of section three hundred and nine the following new paragraph :—

Sec. 309. (Proclamation of residential districts.)

Unless the proclamation otherwise expressly provides, a proclamation under this subsection, whether made before or after the commencement of the Local Government (Amendment) Act, 1970, does not extend to prohibiting the use of a building solely for the purposes of a boarding-house.

- (ii) by inserting in subparagraph (ii) of paragraph (d) of subsection (1C) of the same section after the word "objects" the words ", within such time as may be prescribed,";

- (b) by inserting in paragraph (m) of section three hundred and thirteen after the word "subsidence" the words "or slip";

Sec. 313. (Subjects for consideration.)

- (c) by inserting next after section 314A the following new section :—

New sec. 314B.

314B. (1) Without limiting the operation of any other provision of this Act, where an application is made to the council for approval of the erection of a building on any land and the building, if erected in accordance with the plans and specifications accompanying the application—

Approval of certain building applications may be refused unless lots consolidated.

- (a) would occupy land in two or more lots in a lawful division of land; or
- (b) would occupy land in one or more lots in a lawful division of land but would not comply with any provision of this Act or the ordinances or the requirements of the council but for the fact that that lot or one of those

Local Government (Amendment).

those lots is conterminous with another lot that is in the same ownership as the land on which the building is proposed to be erected, the council may refuse to approve of the application until a plan referred to in subsection three or four of this section has been registered in the office of the Registrar-General.

(2) A person making an application under subsection one of this section or some person authorised by him in writing may cause to be lodged with the council a plan showing as one lot the land referred to in paragraph (a) or (b) of subsection one of this section.

(3) Where a plan referred to in subsection two of this section shows as a boundary of the lot referred to in that subsection a boundary that is not shown as the boundary of a lot in a current plan, as defined in section 327AA of this Act—

- (a) the town clerk or shire clerk shall not endorse on the plan a certificate referred to in subsection four of this section; and
- (b) the plan shall be deemed to be a plan of subdivision submitted for the approval of the council under Part XII of this Act.

(4) Where—

- (a) the town clerk or shire clerk is satisfied that a lot (in this subsection referred to as a “consolidated lot”) shown in a plan comprises land referred to in paragraph (a) or (b) of subsection one of this section; and
- (b) the council refused to approve of an application for approval to erect a building on that land until a plan referred to in subsection two of this section had been registered in the office of the Registrar-General,

the town clerk or shire clerk, as the case may be, may certify that the plan illustrates a consolidated lot for the purposes of this section.

(5)

Local Government (Amendment).

(5) Where a plan bears a certificate referred to in subsection four of this section, the Registrar-General may register the plan in the manner provided for the registration of deposited plans.

(6) An application for approval of the erection of a building shall not be refused by reason only of this section where part only of the land referred to in paragraph (a) or (b) of subsection one of this section is land under the provisions of the Real Property Act, 1900, or where two or more parts of that land are not of the same tenure.

- (d) by omitting paragraph (a) of subsection (2A) of section 317M and by inserting in lieu thereof the following paragraph :— Sec. 317M.
(Appointment.)

(a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

- (e) by omitting paragraph (a) of subsection three of section 317AC and by inserting in lieu thereof the following paragraph :— Sec. 317AC.
(Appointment.)

(a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

- (f) by inserting in section three hundred and eighteen next after paragraph thirty-three the following new paragraph :— Sec. 318.
(Ordinances.)

(34) authorising the council to control and regulate in its area or any part of its area specified in the ordinance the installation of solid or liquid fuel heaters.

(g)

Local Government (Amendment).

Sec. 319.
(Additional
provisions re
ordinances.)

- (g) by omitting from subsection three of section three hundred and nineteen the words "Provided that in no case shall the total amount of fees payable upon the application for the approval of the council under section three hundred and twelve exceed two thousand dollars."

Further
amendment
of Act No.
41, 1919.
Part XII.
(Town
Planning.)

8. Part XII of the Principal Act is amended—

New sec.
327AA.

- (a) by inserting next after section three hundred and twenty-seven the following new section :—

Land in-
cluded in
a current
plan not to
be disposed
of except
in lots or
portions
shown on
that plan.

327AA. (1) In this section—

"current plan", in relation to any land, means—

- (a) a plan of subdivision registered or recorded in the office of the Registrar-General (whether before or after the commencement of the Local Government (Amendment) Act, 1970) but does not include so much of that plan as relates to land included in a plan of subdivision registered or recorded in that office after the plan of subdivision first-mentioned in this paragraph was so registered or recorded; or
- (b) a Crown plan (whether made before or after the commencement of the Local Government (Amendment) Act, 1970, but not being a plan of subdivision referred to in paragraph (f) of the definition of "plan of subdivision"

Local Government (Amendment).

subdivision" in this subsection) showing lots or portions, but does not include so much of that plan as relates to land—

- (i) included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was made; or
- (ii) included in a subsequent Crown plan showing lots or portions;

"plan of subdivision" means—

- (a) a plan registered in the office of the Registrar-General under paragraph (e) of subsection one, or paragraph (c) of subsection two, of section three hundred and twenty-seven of this Act;
- (b) a plan registered or recorded in the office of the Registrar-General showing land that is a lot or portion in a lawful division of land, whenever made, not being land that is a lot in a plan of subdivision (as defined in paragraph (a), (c), (d), (e), (f) or (g) of this definition) so registered or recorded;
- (c) a strata plan registered under the Conveyancing (Strata Titles) Act, 1961;
- (d) a map or plan of land comprised in an application made under Part IV of the Real Property Act, 1900;
- (e) where a certificate of title has issued for any land following the correction of any error or misdescription of the boundaries of the land, any plan showing that land with boundaries as so corrected;

(f)

Local Government (Amendment).

- (f) a plan registered in the office of the Registrar-General in accordance with subsection five of section 314B of this Act; and
- (g) a plan registered or recorded in the office of the Registrar-General showing land that has been resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land.

(2) Notwithstanding the provisions of subsection twelve of section one hundred and ninety-six of the Conveyancing Act, 1919, where any land is included in a current plan, that land shall not be disposed of by way of sale, conveyance, transfer, partition or lease (other than a lease for a period not exceeding five years without option of renewal) unless the land is a lot or portion shown in the current plan and the Registrar-General may refuse to register any instrument evidencing any disposition that contravenes the provisions of this subsection.

(3) The Registrar-General may indicate upon any plan which is in his custody or otherwise record the registration or recording of any later plan comprising some or all of the land in such first-mentioned plan.

(4) Subsection two of this section does not apply to—

(a) land that is disposed of as the whole of the residue—

- (i) of a lot or portion in a current plan after part of that lot or portion has been resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land;

(ii)

Local Government (Amendment).

- (ii) of a lot or portion in a current plan after part of that lot or portion has been opened as a public road; or
 - (iii) of the land comprised in a certificate of title or Crown Grant after part of the land has been shown in a current plan;
 - (b) land that is disposed of as the whole of the land comprised in a certificate of title or Crown Grant;
 - (c) the disposition of land that is part of a lot or portion in a current plan different parts of which are owned in severalty where—
 - (i) one of the several owners disposes of the part of the lot or portion owned by him to an owner of any other part; or
 - (ii) the several owners dispose of the lot or portion to some other person; or
 - (d) the disposition of land that is a lot or portion in a lawful division of land, whenever made, not being a lot or portion shown in a plan of subdivision registered or recorded in the office of the Registrar-General that is not a current plan or shown in a Crown plan that is not a current plan.
- (b) by inserting at the end of paragraph (1) of subsec- Sec. 333.
 tion one of section three hundred and thirty-three (Subjects
 the following word and new paragraph :— for con-
 sideration
 re sub-
 divisions.)
- and
- (m) whether the land is or probably will be
 subject to subsidence or slip.

(c)

Local Government (Amendment).

Sec. 339.
(Penalty.)

- (c) by inserting in section three hundred and thirty-nine after the word "Act," the words "or who disposes of any land in contravention of subsection two of section 327AA of this Act,";

Sec. 341A.
(Appointment.)

- (d) (i) by omitting from paragraph (e) of subsection two of section 341A the words "holding a certificate as Town and Country Planner qualifying him to assist councils in the preparation of schemes in accordance with section 342E of this Act and shall be";

- (ii) by omitting paragraph (a) of subsection three of the same section and by inserting in lieu thereof the following paragraph :—

(a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

Sec. 341E.
(Panel.)

- (e) by omitting subsection three of section 341E and by inserting in lieu thereof the following subsection :—

(3) The panel shall consist of sixteen members, that is to say—

(a) one member, being an officer of the Department of Local Government, who shall be known as the deputy chairman of the board;

(b) two members, who shall be officers of the Department of Lands and registered surveyors, and who shall be nominated by the Under Secretary for Lands;

(c) four members, who shall be engineers selected by the Governor from eight engineers nominated by the Institution of Engineers, Australia (Sydney Division);

(d)

Local Government (Amendment).

- (d) five members, who shall be officers of councils and shall be selected by the Governor from a panel of ten such officers nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales;
- (e) four members, each of whom shall be a registered surveyor selected by the Governor from eight such surveyors nominated by the Institution of Surveyors of New South Wales.

9. (1) Part XIIA of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XIIA. (Town and Country Planning Schemes.)

- (a) by inserting next after paragraph (h) of subsection three of section 342G the following new paragraph :—

Sec. 342G. (Contents of scheme.)

- (h1) the regulation of subdivisions and of matters relating thereto;

- (b) (i) by omitting subsection one of section 342L and by inserting in lieu thereof the following subsection :—

Sec. 342L. (Variation of prescribed scheme.)

(1) A prescribed scheme may be varied by a subsequent scheme (in this Part referred to as a "varying scheme").

A varying scheme may supplement or amend the prescribed scheme.

Local Government (Amendment).

(ii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(a) In this subsection—

“local scheme” means a scheme that applies to any land in an area to which or to part of which a prescribed scheme that also applies to land in another area applies;

“previous scheme” means a prescribed scheme (whether or not it is a varying scheme) that, upon its coming into operation, applied to land in two or more areas.

(iii) by inserting in paragraph (b) of the same subsection after the word “applies” where firstly occurring the words “and to which a previous scheme before its revocation pursuant to paragraph (d) of this subsection applied”;

(iv) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “previous scheme”;

(v) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme as relate to the land to which the local scheme applies and” and by inserting in lieu thereof the words “previous scheme as”;

(vi) by omitting from subparagraph (i) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of any land to which the local scheme applies before the revocation of the County of Cumberland Planning Scheme in respect of
that

Local Government (Amendment).

that land, pursuant to paragraph (d) of this subsection” and by inserting in lieu thereof the words “previous scheme”;

- (vii) by omitting from subparagraph (ii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme committed in respect of any land to which the local scheme applies before such” and by inserting in lieu thereof the words “previous scheme committed before its”;
- (viii) by omitting from subparagraph (iii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of any land to which the local scheme applies” and by inserting in lieu thereof the words “previous scheme”;
- (ix) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme before its revocation pursuant to paragraph (d) of this subsection”;
- (x) by omitting from subparagraph (ii) of the same paragraph the words “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme”;
- (xi) by omitting from the same subparagraph the words “in the local scheme of that provision or of a provision substantially to the same effect” and by inserting in lieu thereof the words “of that provision or of a provision substantially to the same effect in the local scheme by the coming into operation of which that previous scheme was revoked pursuant to paragraph (d) of this subsection”;
- (xii)

Local Government (Amendment).

(xii) by omitting from paragraph (d) of the same subsection the words "the County of Cumberland Planning Scheme" and by inserting in lieu thereof the words "any previous scheme";

(xiii) by inserting in paragraph (e) of the same subsection after the word "subsequent" the word "varying";

Sec. 342T.
(Definitions.)

(c) by inserting in subsection one of section 342T in the definition of "Development" after the word "building," where firstly occurring the words "the subdivision of the land".

(2) The County of Cumberland Planning Scheme, as defined by paragraph (a) of subsection two of section 342L of the Principal Act, as in force immediately before commencement of this Act, shall be deemed to be a previous scheme for the purposes of that section as amended by this section.

(3) Any action, matter or thing done, taken or commenced before the commencement of this Act shall be as valid and effectual as it would have been had the amendments made by paragraphs (a) and (c) of subsection one of this section been in force at the time when that action, matter or thing was done, taken or commenced.

Further
amendment
of Act No.
41, 1919.
Part XIV.
(Water,
Sewerage,
Drainage, or
Electricity
Works.)

10. Part XIV of the Principal Act is amended—

Sec. 378.
(Council
shall levy
a sufficient
sum.)

(a) by omitting from subsection three of section three hundred and seventy-eight the words "loan raised in respect thereof," and by inserting in lieu thereof the words "loan raised in respect of the construction of such works, or the augmentation or extension thereof,";

(b)

Local Government (Amendment).

- (b) by inserting next after subsection (5C) of section three hundred and seventy-nine the following new subsection :—
- Sec. 379.
(Land supplied with water.)

(5D) The council may exempt from sewerage local rates any land which is not built upon and which by reason of its being subject to flooding or tidal inundation is in the opinion of the council unsuitable for the erection of a building.

11. Part XXIII of the Principal Act is amended—

Further amendment of Act No. 41, 1919.
Part XXIII.
(Miscellaneous Powers.)

- (a) by inserting next after section four hundred and ninety the following new section :—
- New sec. 490A.

490A. (1) In this section "marina" means a pontoon, jetty, pier, or similar structure, designed or adapted to provide moorings for small boats used primarily for pleasure or recreation and includes ancillary works such as slipways, facilities for the repair and maintenance of boats and the provision of fuel, accessories and parts for boats, and of foodstuffs.

(2) The council may, on land which it is entitled to use for the purpose, provide, control and manage, a marina, and may, in connection therewith, demand and recover such fees or charges as may be fixed by resolution of the council subject to any maximum prescribed by ordinance.

- (b) (i) by inserting in subsection one of section 496A after the words "it may impose" the words "to any person for the purpose of purchasing a dwelling or";
- Sec. 496A.
(Advances by council for housing.)

(ii)

Local Government (Amendment).

- (ii) by omitting from subsection two of the same section the words "The owner" and by inserting in lieu thereof the words "A person to whom any such advance is made";

Sec. 505.
(Works or
services
outside
area.)

- (c) by inserting at the end of section five hundred and five the following new subsection :—

(2) A reference in subsection one of this section to "another council" includes a reference to a local authority of any State or Territory of the Commonwealth adjoining New South Wales.

New sec.
506c.

- (d) by inserting next after section 506B the following new section :—

Certain
works out-
side the
State.

506c. (1) Where a local authority of any State or Territory of the Commonwealth adjoining New South Wales is authorised under and in accordance with the laws of that State or Territory to enter into an agreement, of the nature referred to in this subsection with the council of an area and that council's area adjoins the area of that authority, that council may, with the approval of the Minister, enter into an agreement with that local authority for the carrying out or performance in that council's or that local authority's area or in both such areas of any local government works, services or undertakings by that local authority or by the council or by both acting jointly.

(2) For the purpose of this section the council may acquire, in any manner other than by way of resumption or appropriation, and hold land in the area of the local authority.

(3) In this section "council" includes a county council or two or more councils which have entered into an agreement referred to in section five hundred and twenty-one of this Act, and "area" includes a county district or the area of two or more councils, as the case may be.

(e)

Local Government (Amendment).

- (e) (i) by omitting subsection one of section five hundred and nine and by inserting in lieu thereof the following subsections :—

Sec. 509.
(Medical attendance in sparsely settled districts.)

(1) Where the council of a shire is of the opinion that the shire or any part thereof lacks adequate medical, dental or nursing services, the council may enter into an agreement of the nature referred to in subsection (1A) of this section with a medical practitioner, a dentist within the meaning of the Dentists Act, 1934, or a registered nurse within the meaning of the Nurses Registration Act, 1953, as the case may require, for that medical practitioner, dentist or nurse to provide medical, dental or nursing services, as the case may be, in the shire or that part of the shire.

(1A) An agreement for the purposes of subsection one of this section shall be an agreement—

- (a) whereby the council guarantees a gross annual income, to be specified in the agreement, to the other party to the agreement from his practice of medicine, dentistry or nursing within the shire or part of the shire to which the agreement relates and undertakes to pay to that party the amount by which the actual gross income of that party from that practice falls short of the guaranteed gross annual income; or
- (b) whereby the council agrees to pay to the medical practitioner, dentist or nurse a specified subsidy for a specified period.

- (ii) by omitting subsections four and five of the same section;

(f)

Local Government (Amendment).

Sec. 510A.

(Land
used for
storage of
old motor
vehicles,
etc.)

- (f) by inserting at the end of section 510A the following new subsections :—

(2) Without limiting the generality of subsection one of this section, the council may, by notice in writing, order the owner or occupier of any land used for any of the purposes referred to in paragraphs (a) and (b) of subsection one of this section to do, within a reasonable time to be specified in the notice, such one or more of the following things as may be specified in such notice, that is to say—

- (a) to stack any disused motor vehicles or old machinery or other old or used or second-hand materials on the land in an orderly manner and to the satisfaction of the council in such situation on the land as may be specified in the notice;
- (b) to erect on the land fences or screens of such a kind and in such a position as may be so specified;
- (c) to plant trees within the land in such positions as may be so specified.

(3) If the order is not obeyed the council may enter upon the land and execute the order and may recover the cost in a summary manner from the person to whom the order has been directed but without prejudice to that person's right to recover the cost from any other person liable for such cost.

(4) (a) Any person who has received an order under this section may, within the time and in the manner prescribed by rules of court, appeal against the order to a district court judge having jurisdiction within the district in which the land is situated.

(b) Such judge may summon witnesses, hear evidence, and determine the matter, having regard to this Act, the ordinances, the circumstances of the case, and the public interest.

(c)

Local Government (Amendment).

(c) The decision of such court upon any such appeal shall be final, and shall be binding upon the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council.

(d) If in any decision under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the district court.

- (g) by omitting from section 512D the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars".
- Sec. 512D.
(Penalty for breaking electric line, etc.)

12. Part XXX of the Principal Act is amended—

Further amendment of Act No. 41, 1919.
Part XXX.
(Supplementary.)

- (a) (i) by omitting from subsection one of section six hundred and eleven the words "the council shall pay the same to the Treasury" and by inserting in lieu thereof the words "the council may transfer that balance to such fund as it may deem proper, but shall on application being made by any person entitled thereto pay that balance to that person";
- (ii) by omitting from subsection three of the same section the words "subsections one and two" and by inserting in lieu thereof the words "subsection two";

Sec. 611.
(Payment to the Treasury.)

- (b) by inserting at the end of section six hundred and fifty-four the following new subsection :—

Sec. 654.
(Disputes between councils, &c., may be submitted to Minister.)

(7) This section shall apply to differences between a county council and one or more other county councils or between a county council and

one

Local Government (Amendment).

one or more councils of areas or a department of the Government in the same way as it applies to differences between the councils of any two or more areas or between a council and a department of the Government.

Amendment
of Act No.
23, 1896.
Sec. 32.
(Penalty
for breaking
electric line,
&c.)

13. The Municipal Council of Sydney Electric Lighting Act, 1896, is amended by omitting from section thirty-two the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars".

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 5 March, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 1, 1970.

An Act to make further provisions with respect to the powers, authorities, duties and functions of councils; for this and other purposes to amend the Local Government Act, 1919, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 13th March, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Local Government Short title. (Amendment) Act, 1970".

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Local Government (Amendment).

(2) The Local Government Act, 1919, is in this Act referred to as the Principal Act.

Amendment
of Act No.
41, 1919.
Part IV.
(The
Councils
of Cities,
Municipalities,
and Shires.)

Sec. 28.
(Travelling
expenses.)

2. Part IV of the Principal Act is amended—

(a) by inserting at the end of subsection one of section twenty-eight the following new paragraphs :—

(g) where the council is a member of The Australian Gas Association, to and from the annual or regional conventions of such Association;

(h) in such cases as may be prescribed, to and from the periodical conferences or meetings of such other associations or organisations as may be prescribed.

Sec. 28A.
(Insurance
of members.)

(b) by omitting subsections one and (1A) of section 28A and by inserting in lieu thereof the following subsections :—

(1) The council may insure or may itself provide for the insurance of members of the council against personal injury, whether fatal or not, arising out of or in the course of the carrying out by such member of any business of the council or the performance by such member of any function in his capacity as a member of the council.

(1A) The council may insure or may itself provide for the insurance of any person who is not the holder of civic office and who has been elected or appointed as a member of any committee constituted under this Act and as such member is authorised to exercise or perform, otherwise than as a servant, any power, authority, duty or function
of

Local Government (Amendment).

of the council against any personal injury, whether fatal or otherwise, arising out of or in the course of the exercise or performance by that person of any such power, authority, duty or function.

3. Part V of the Principal Act is amended—

Further
amendment
of Act No.
41, 1919.
Part V.
(Electoral
Provisions.)

- (a) (i) by inserting next after subsection one of section sixty-four the following new sub-
section :—

Sec. 64.
(Prepara-
tion of
rolls.)

(1A) The council may cause a roll of electors to be prepared in accordance with this Division for an extraordinary election which is held not more than six months after an election for which a roll has been prepared under subsection one of this section.

- (ii) by omitting from subsection four of the same section the words “shall be the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election” and by inserting in lieu thereof the following words :—

shall be—

- (a) where the council has not caused a roll of electors to be prepared in accordance with this Division for that extraordinary election, the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election; or
- (b) where the council has caused such a roll to be so prepared, that roll.

(b)

Local Government (Amendment).

Sec. 65A.
(Preparation of
roll of
electors.)

- (b) (i) by omitting from subsection seven of section 65A the words "The roll of electors" and by inserting in lieu thereof the words "Except as provided in subsection eight of this section, the roll of electors";

- (ii) by inserting at the end of the same section the following new subsection :—

(8) The council may cause a roll of electors to be prepared in accordance with this Division for a poll and where it does so that roll shall be used for the poll.

Further
amendment
of Act No.
41, 1919.
Part VII.
(Finance.)

4. (1) Part VII of the Principal Act is amended—

Sec. 160.
(Certificate as to
amount
due.)

- (a) by inserting next after paragraph (b) of subsection three of section one hundred and sixty the following new paragraph :—

(c) where the person, appearing from any of the council's records to be the owner of the land at the date of the certificate, acquired the land pursuant to Division 5 of Part XXX of this Act, that that person is shown in those records as the owner of the land.

Sec. 160E.
(Rating of
certain
classes of
lease from
the Crown.)

- (b) by inserting in subsection three of section 160E after the words "unimproved rating factor and" the words ", where the valuation includes a valuation of the improved capital value,";

Sec. 174.
(Limited
overdrafts.)

- (c) (i) by omitting from paragraph (b) of subsection two of section one hundred and seventy-four the following words :—

In calculating the limit of overdraft in respect of a fund any sum received by the council from the Government or Main Roads

Board

Local Government (Amendment).

Board as a grant and credited to such fund, except any sum received as endowment under Division 5 of Part VII of this Act, shall be excluded.

- (ii) by omitting subsections (2A) and three of the same section and by inserting in lieu thereof the following subsections :—

(2A) Where the Minister is of the opinion that special circumstances make it expedient so to do, he may, on the application of the council, from time to time fix the amount which may, in respect of any fund, be borrowed by the council by way of overdraft.

(3) No greater sum shall be borrowed under this section than—

- (a) where the amount that may be borrowed by the council in respect of a fund has not been fixed by the Minister under subsection (2A) of this section—the amount stated in the certificate of the auditor of the council as being the sum which may be borrowed within the limits imposed by subsection two of this section; or
- (b) where the amount that may be so borrowed is so fixed—the amount so fixed.

- (d) (i) by omitting subsection one of section 178A and by inserting in lieu thereof the following subsection :—

(1) Subject to this section the council may, without obtaining any approval under section one hundred and seventy-three of this Act, accept an advance not exceeding ten thousand dollars from a ratepayer or the occupier of any land within the area of the council or from

the

Sec. 178A.
(Advances
for works
applied for
by ratepayer
or occupier.)

Local Government (Amendment).

the owner or occupier of, or the person liable for payment of rates on, land outside the area of the council for the purpose of carrying out any works that the council is authorised to carry out and that are applied for by such ratepayer, owner, occupier or other person as the case may be.

- (ii) by omitting subsections three and four of the same section and by inserting in lieu thereof the following subsections :—

(3) The terms of the loan shall include provision for repayment within fifteen years from the day on which the loan is made.

(4) The council shall not accept any such advance if, by doing so, the amount owing by the council under this section would exceed ten per centum of the total revenue of such council for the preceding year, or such greater amount as the Minister may from time to time determine.

Sec. 200E.
(Exchange
stock, etc.)

- (e) by omitting section 200E.

(2) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced on the seventeenth day of April, one thousand nine hundred and sixty-nine.

Further
amendment
of Act No.
41, 1919.
Part IX.
(Public
Roads.)
Sec. 229.
(Width of
new roads.)

5. Part IX of the Principal Act is amended—

- (a) (i) by inserting in subsection two of section two hundred and twenty-nine after the words "the council may" the words "open or";
- (ii) by omitting subsection three of the same section;
- (b)

Local Government (Amendment).

- (b) by omitting from subsection one of section 241A Sec. 241A. the words "cleansing of any such private thorough- (Private thorough-fare the council may itself bear the cost of such cleansing" and by inserting in lieu thereof the words "carrying out of any such work, the council may itself bear the cost of such work";
- (c) (i) by inserting in subsection one of section 267B Sec. 267B. after the words "or has" the words "or have"; (Removal of derelict vehicles and the remains of vehicles from public roads.)
- (ii) by omitting from the same subsection the words "the council may seize and take charge of and remove or tow away or cause to be removed or towed away such vehicle or remains" and by inserting in lieu thereof the words "the council may cause the vehicle or remains to which the notice refers to be examined by a servant of the council duly appointed for the purpose by resolution of the council and, if that servant is of opinion that the cost of towing or removing the vehicle or remains to any place referred to in paragraph (b) of this subsection will be—
- (a) greater than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains and cause the vehicle or remains to be destroyed or otherwise disposed of; or
- (b) equal to or less than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains to a place set apart by the council";

(iii)

Local Government (Amendment).

- (iii) by omitting subsection two of the same section;
- (iv) by omitting from subsection three of the same section the word "two" and inserting in lieu thereof the word "one";
- (v) by inserting in subsection four of the same section after the word "seized" the words "under paragraph (b) of subsection one of this section";
- (vi) by inserting at the end of the same section the following new subsection :—

(5) In this section, a reference to a vehicle or the remains of a vehicle includes a reference to any goods or other things upon or within the vehicle or remains.

Sec. 270c.
(Interpre-
tation.)

- (d) by omitting from section 270c the definition of "Parking meter" and by inserting in lieu thereof the following definition :—

"Parking meter" means a device that is installed in a metered space and that is designed to indicate or is capable of indicating whether the fee or charge fixed in respect of any vehicle or horse standing or waiting in that metered space has been paid and includes the stand upon which a parking meter is erected.

New sec.
270s.

- (e) by inserting next after section 270R the following new section :—

Penalty
notices for
certain
offences.
cf. Act No.
5, 1909,
s. 18B.

270s. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 270R of this Act is guilty of, any offence against any ordinance made under subsection four of section two hundred and seventy-seven of this Act the proper servant may serve a notice on that person to the effect that if that person does not desire to have the matter determined by a court,
that

Local Government (Amendment).

that person may pay to a servant of that council specified in the notice within the time specified therein an amount of penalty prescribed for the offence if dealt with under this section.

(2) Any notice under subsection one of this section—

- (a) may be served personally or by post; or
- (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 270R of this Act, may be addressed to the owner without naming him or stating his address and may be served by leaving it on or attaching it to the vehicle.

(3) Any person alleged to have committed or to be guilty of an offence to which subsection one of this section applies shall have the right to decline to be dealt with under this section.

Any person who fails to pay the penalty within the time specified in the notice given to him under subsection one of this section or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

(4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

(5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(6)

Local Government (Amendment).

(6) The council may by resolution—

- (a) fix the amount of penalty payable under this section for any offence referred to in subsection one of this section, not exceeding the maximum penalty for the offence imposed by or under this Act;
- (b) for the purposes of this section, fix different amounts of penalties for different offences or classes of offences or for offences or classes of offences having regard to the circumstances thereof or offences or classes of offences committed in different areas provided by the council under section 270Q of this Act.

(7) The provisions of this section are supplemental to and not in derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

6. Part X of the Principal Act is amended—

Further amendment
of Act No.
41, 1919.
Part X.
(Public
Health,
Safety,
and Con-
venience.)

Sec. 282.
(Keeping,
removal,
and de-
struction.)

- (a) by inserting at the end of paragraph (b) of subsection two of section two hundred and eighty-two the words “and the contents of any septic tank, septic closet, and chemical closet”;
- (b) by inserting at the end of paragraph (c) of the same subsection the words “and the contents of any sullage holding tank, sullage pit, and grease trap”.

7.

*Local Government (Amendment).***7. Part XI of the Principal Act is amended—**

Further
amendment
of Act No.
41, 1919.
Part XI.
(Building
Regulation.)

- (a) (i) by inserting next after paragraph (g) of subsection one of section three hundred and nine the following new paragraph :—

Sec. 309.
(Proclama-
tion of
residential
districts.)

Unless the proclamation otherwise expressly provides, a proclamation under this subsection, whether made before or after the commencement of the Local Government (Amendment) Act, 1970, does not extend to prohibiting the use of a building solely for the purposes of a boarding-house.

- (ii) by inserting in subparagraph (ii) of paragraph (d) of subsection (1C) of the same section after the word "objects" the words ", within such time as may be prescribed,";
- (b) by inserting in paragraph (m) of section three hundred and thirteen after the word "subsidence" the words "or slip";
- (c) by inserting next after section 314A the following new section :—

Sec. 313.
(Subjects
for con-
sideration.)

New sec.
314B.

314B. (1) Without limiting the operation of any other provision of this Act, where an application is made to the council for approval of the erection of a building on any land and the building, if erected in accordance with the plans and specifications accompanying the application—

Approval
of certain
building
applications
may be
refused
unless lots
consolidated

- (a) would occupy land in two or more lots in a lawful division of land; or
- (b) would occupy land in one or more lots in a lawful division of land but would not comply with any provision of this Act or the ordinances or the requirements of the council but for the fact that that lot or one of those

Local Government (Amendment).

those lots is conterminous with another lot that is in the same ownership as the land on which the building is proposed to be erected, the council may refuse to approve of the application until a plan referred to in subsection three or four of this section has been registered in the office of the Registrar-General.

(2) A person making an application under subsection one of this section or some person authorised by him in writing may cause to be lodged with the council a plan showing as one lot the land referred to in paragraph (a) or (b) of subsection one of this section.

(3) Where a plan referred to in subsection two of this section shows as a boundary of the lot referred to in that subsection a boundary that is not shown as the boundary of a lot in a current plan, as defined in section 327AA of this Act—

- (a) the town clerk or shire clerk shall not endorse on the plan a certificate referred to in subsection four of this section; and
- (b) the plan shall be deemed to be a plan of subdivision submitted for the approval of the council under Part XII of this Act.

(4) Where—

- (a) the town clerk or shire clerk is satisfied that a lot (in this subsection referred to as a “consolidated lot”) shown in a plan comprises land referred to in paragraph (a) or (b) of subsection one of this section; and
- (b) the council refused to approve of an application for approval to erect a building on that land until a plan referred to in subsection two of this section had been registered in the office of the Registrar-General,

the town clerk or shire clerk, as the case may be, may certify that the plan illustrates a consolidated lot for the purposes of this section.

(5)

Local Government (Amendment).

(5) Where a plan bears a certificate referred to in subsection four of this section, the Registrar-General may register the plan in the manner provided for the registration of deposited plans.

(6) An application for approval of the erection of a building shall not be refused by reason only of this section where part only of the land referred to in paragraph (a) or (b) of subsection one of this section is land under the provisions of the Real Property Act, 1900, or where two or more parts of that land are not of the same tenure.

- (d) by omitting paragraph (a) of subsection (2A) of section 317M and by inserting in lieu thereof the following paragraph :— Sec. 317M.
(Appointment.)

(a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

- (e) by omitting paragraph (a) of subsection three of section 317AC and by inserting in lieu thereof the following paragraph :— Sec. 317AC.
(Appointment.)

(a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

- (f) by inserting in section three hundred and eighteen next after paragraph thirty-three the following new paragraph :— Sec. 318.
(Ordinances.)

(34) authorising the council to control and regulate in its area or any part of its area specified in the ordinance the installation of solid or liquid fuel heaters.

(g)

Local Government (Amendment).

Sec. 319.
(Additional
provisions re
ordinances.)

- (g) by omitting from subsection three of section three hundred and nineteen the words "Provided that in no case shall the total amount of fees payable upon the application for the approval of the council under section three hundred and twelve exceed two thousand dollars."

Further
amendment
of Act No.
41, 1919.
Part XII.
(Town
Planning.)

8. Part XII of the Principal Act is amended—

New sec.
327AA.

- (a) by inserting next after section three hundred and twenty-seven the following new section :—

Land in-
cluded in
a current
plan not to
be disposed
of except
in lots or
portions
shown on
that plan.

327AA. (1) In this section—

"current plan", in relation to any land, means—

- (a) a plan of subdivision registered or recorded in the office of the Registrar-General (whether before or after the commencement of the Local Government (Amendment) Act, 1970) but does not include so much of that plan as relates to land included in a plan of subdivision registered or recorded in that office after the plan of subdivision first-mentioned in this paragraph was so registered or recorded; or
- (b) a Crown plan (whether made before or after the commencement of the Local Government (Amendment) Act, 1970, but not being a plan of subdivision referred to in paragraph (f) of the definition of "plan of subdivision"

Local Government (Amendment).

subdivision" in this subsection) showing lots or portions, but does not include so much of that plan as relates to land—

- (i) included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was made; or
- (ii) included in a subsequent Crown plan showing lots or portions;

"plan of subdivision" means—

- (a) a plan registered in the office of the Registrar-General under paragraph (e) of subsection one, or paragraph (c) of subsection two, of section three hundred and twenty-seven of this Act;
- (b) a plan registered or recorded in the office of the Registrar-General showing land that is a lot or portion in a lawful division of land, whenever made, not being land that is a lot in a plan of subdivision (as defined in paragraph (a), (c), (d), (e), (f) or (g) of this definition) so registered or recorded;
- (c) a strata plan registered under the Conveyancing (Strata Titles) Act, 1961;
- (d) a map or plan of land comprised in an application made under Part IV of the Real Property Act, 1900;
- (e) where a certificate of title has issued for any land following the correction of any error or misdescription of the boundaries of the land, any plan showing that land with boundaries as so corrected;

(f)

Local Government (Amendment).

- (f) a plan registered in the office of the Registrar-General in accordance with subsection five of section 314B of this Act; and
- (g) a plan registered or recorded in the office of the Registrar-General showing land that has been resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land.

(2) Notwithstanding the provisions of subsection twelve of section one hundred and ninety-six of the Conveyancing Act, 1919, where any land is included in a current plan, that land shall not be disposed of by way of sale, conveyance, transfer, partition or lease (other than a lease for a period not exceeding five years without option of renewal) unless the land is a lot or portion shown in the current plan and the Registrar-General may refuse to register any instrument evidencing any disposition that contravenes the provisions of this subsection.

(3) The Registrar-General may indicate upon any plan which is in his custody or otherwise record the registration or recording of any later plan comprising some or all of the land in such first-mentioned plan.

(4) Subsection two of this section does not apply to—

- (a) land that is disposed of as the whole of the residue—
 - (i) of a lot or portion in a current plan after part of that lot or portion has been resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land;
 - (ii)

Local Government (Amendment).

- (ii) of a lot or portion in a current plan after part of that lot or portion has been opened as a public road; or
 - (iii) of the land comprised in a certificate of title or Crown Grant after part of the land has been shown in a current plan;
 - (b) land that is disposed of as the whole of the land comprised in a certificate of title or Crown Grant;
 - (c) the disposition of land that is part of a lot or portion in a current plan different parts of which are owned in severalty where—
 - (i) one of the several owners disposes of the part of the lot or portion owned by him to an owner of any other part; or
 - (ii) the several owners dispose of the lot or portion to some other person; or
 - (d) the disposition of land that is a lot or portion in a lawful division of land, whenever made, not being a lot or portion shown in a plan of subdivision registered or recorded in the office of the Registrar-General that is not a current plan or shown in a Crown plan that is not a current plan.
- (b) by inserting at the end of paragraph (1) of subsection one of section three hundred and thirty-three the following word and new paragraph :—
- and
- (m) whether the land is or probably will be subject to subsidence or slip.

(Subjects for consideration re subdivisions.)

(c)

Local Government (Amendment).

Sec. 339.
(Penalty.)

- (c) by inserting in section three hundred and thirty-nine after the word "Act," the words "or who disposes of any land in contravention of subsection two of section 327AA of this Act,";

Sec. 341A.
(Appointment.)

- (d) (i) by omitting from paragraph (e) of subsection two of section 341A the words "holding a certificate as Town and Country Planner qualifying him to assist councils in the preparation of schemes in accordance with section 342E of this Act and shall be";

- (ii) by omitting paragraph (a) of subsection three of the same section and by inserting in lieu thereof the following paragraph :—

(a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

Sec. 341E.
(Panel.)

- (e) by omitting subsection three of section 341E and by inserting in lieu thereof the following subsection :—

(3) The panel shall consist of sixteen members, that is to say—

- (a) one member, being an officer of the Department of Local Government, who shall be known as the deputy chairman of the board;
- (b) two members, who shall be officers of the Department of Lands and registered surveyors, and who shall be nominated by the Under Secretary for Lands;
- (c) four members, who shall be engineers selected by the Governor from eight engineers nominated by the Institution of Engineers, Australia (Sydney Division);

(d)

Local Government (Amendment).

- (d) five members, who shall be officers of councils and shall be selected by the Governor from a panel of ten such officers nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales;
- (e) four members, each of whom shall be a registered surveyor selected by the Governor from eight such surveyors nominated by the Institution of Surveyors of New South Wales.

9. (1) Part XIIA of the Principal Act is amended—

Further
amendment
of Act No.
41, 1919.
Part XIIA.
(Town and
Country
Planning
Schemes.)

- (a) by inserting next after paragraph (h) of subsection three of section 342G the following new paragraph :—

Sec. 342G.
(Contents of
scheme.)

- (h1) the regulation of subdivisions and of matters relating thereto;

- (b) (i) by omitting subsection one of section 342L and by inserting in lieu thereof the following subsection :—

Sec. 342L.
(Variation
of pre-
scribed
scheme.)

(1) A prescribed scheme may be varied by a subsequent scheme (in this Part referred to as a "varying scheme").

A varying scheme may supplement or amend the prescribed scheme.

(ii)

Local Government (Amendment).

- (ii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(a) In this subsection—

“local scheme” means a scheme that applies to any land in an area to which or to part of which a prescribed scheme that also applies to land in another area applies;

“previous scheme” means a prescribed scheme (whether or not it is a varying scheme) that, upon its coming into operation, applied to land in two or more areas.

- (iii) by inserting in paragraph (b) of the same subsection after the word “applies” where firstly occurring the words “and to which a previous scheme before its revocation pursuant to paragraph (d) of this subsection applied”;
- (iv) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “previous scheme”;
- (v) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme as relate to the land to which the local scheme applies and” and by inserting in lieu thereof the words “previous scheme as”;
- (vi) by omitting from subparagraph (i) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of any land to which the local scheme applies before the revocation of the County of Cumberland Planning Scheme in respect of that

Local Government (Amendment).

that land, pursuant to paragraph (d) of this subsection” and by inserting in lieu thereof the words “previous scheme”;

- (vii) by omitting from subparagraph (ii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme committed in respect of any land to which the local scheme applies before such” and by inserting in lieu thereof the words “previous scheme committed before its”;
- (viii) by omitting from subparagraph (iii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of any land to which the local scheme applies” and by inserting in lieu thereof the words “previous scheme”;
- (ix) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme before its revocation pursuant to paragraph (d) of this subsection”;
- (x) by omitting from subparagraph (ii) of the same paragraph the words “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme”;
- (xi) by omitting from the same subparagraph the words “in the local scheme of that provision or of a provision substantially to the same effect” and by inserting in lieu thereof the words “of that provision or of a provision substantially to the same effect in the local scheme by the coming into operation of which that previous scheme was revoked pursuant to paragraph (d) of this subsection”;

(xii)

Local Government (Amendment).

(xii) by omitting from paragraph (d) of the same subsection the words "the County of Cumberland Planning Scheme" and by inserting in lieu thereof the words "any previous scheme";

(xiii) by inserting in paragraph (e) of the same subsection after the word "subsequent" the word "varying";

Sec. 342T.
(Definitions.)

(c) by inserting in subsection one of section 342T in the definition of "Development" after the word "building," where firstly occurring the words "the subdivision of the land".

(2) The County of Cumberland Planning Scheme, as defined by paragraph (a) of subsection two of section 342L of the Principal Act, as in force immediately before commencement of this Act, shall be deemed to be a previous scheme for the purposes of that section as amended by this section.

(3) Any action, matter or thing done, taken or commenced before the commencement of this Act shall be as valid and effectual as it would have been had the amendments made by paragraphs (a) and (c) of subsection one of this section been in force at the time when that action, matter or thing was done, taken or commenced.

Further
amendment
of Act No.
41, 1919.
Part XIV.
(Water,
Sewerage,
Drainage, or
Electricity
Works.)

10. Part XIV of the Principal Act is amended—

Sec. 378.
(Council
shall levy
a sufficient
sum.)

(a) by omitting from subsection three of section three hundred and seventy-eight the words "loan raised in respect thereof," and by inserting in lieu thereof the words "loan raised in respect of the construction of such works, or the augmentation or extension thereof,";

(b)

Local Government (Amendment).

- (b) by inserting next after subsection (5C) of section three hundred and seventy-nine the following new subsection :—
- Sec. 379.
(Land supplied with water.)

(5D) The council may exempt from sewerage local rates any land which is not built upon and which by reason of its being subject to flooding or tidal inundation is in the opinion of the council unsuitable for the erection of a building.

11. Part XXIII of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XXIII. (Miscellaneous Powers.)

- (a) by inserting next after section four hundred and ninety the following new section :—
- New sec. 490A.

490A. (1) In this section "marina" means a pontoon, jetty, pier, or similar structure, designed or adapted to provide moorings for small boats used primarily for pleasure or recreation and includes ancillary works such as slipways, facilities for the repair and maintenance of boats and the provision of fuel, accessories and parts for boats, and of foodstuffs.

(2) The council may, on land which it is entitled to use for the purpose, provide, control and manage, a marina, and may, in connection therewith, demand and recover such fees or charges as may be fixed by resolution of the council subject to any maximum prescribed by ordinance.

- (b) (i) by inserting in subsection one of section 496A after the words "it may impose" the words "to any person for the purpose of purchasing a dwelling or";
- Sec. 496A. (Advances by council for housing.)

(ii)

Local Government (Amendment).

- (ii) by omitting from subsection two of the same section the words "The owner" and by inserting in lieu thereof the words "A person to whom any such advance is made";
- Sec. 505.
(Works or services outside area.)
- (c) by inserting at the end of section five hundred and five the following new subsection :—
- (2) A reference in subsection one of this section to "another council" includes a reference to a local authority of any State or Territory of the Commonwealth adjoining New South Wales.
- New sec.
506c.
- (d) by inserting next after section 506B the following new section :—
- 506c. (1) Where a local authority of any State or Territory of the Commonwealth adjoining New South Wales is authorised under and in accordance with the laws of that State or Territory to enter into an agreement, of the nature referred to in this subsection with the council of an area and that council's area adjoins the area of that authority, that council may, with the approval of the Minister, enter into an agreement with that local authority for the carrying out or performance in that council's or that local authority's area or in both such areas of any local government works, services or undertakings by that local authority or by the council or by both acting jointly.
- (2) For the purpose of this section the council may acquire, in any manner other than by way of resumption or appropriation, and hold land in the area of the local authority.
- (3) In this section "council" includes a county council or two or more councils which have entered into an agreement referred to in section five hundred and twenty-one of this Act, and "area" includes a county district or the area of two or more councils, as the case may be.
- (e)

Local Government (Amendment).

- (e) (i) by omitting subsection one of section five hundred and nine and by inserting in lieu thereof the following subsections : —

Sec. 509.
(Medical attendance in sparsely settled districts.)

(1) Where the council of a shire is of the opinion that the shire or any part thereof lacks adequate medical, dental or nursing services, the council may enter into an agreement of the nature referred to in subsection (1A) of this section with a medical practitioner, a dentist within the meaning of the Dentists Act, 1934, or a registered nurse within the meaning of the Nurses Registration Act, 1953, as the case may require, for that medical practitioner, dentist or nurse to provide medical, dental or nursing services, as the case may be, in the shire or that part of the shire.

(1A) An agreement for the purposes of subsection one of this section shall be an agreement—

- (a) whereby the council guarantees a gross annual income, to be specified in the agreement, to the other party to the agreement from his practice of medicine, dentistry or nursing within the shire or part of the shire to which the agreement relates and undertakes to pay to that party the amount by which the actual gross income of that party from that practice falls short of the guaranteed gross annual income; or
 - (b) whereby the council agrees to pay to the medical practitioner, dentist or nurse a specified subsidy for a specified period.
- (ii) by omitting subsections four and five of the same section;

(f)

Local Government (Amendment).

Sec. 510A.
(Land
used for
storage of
old motor
vehicles,
etc.)

(f) by inserting at the end of section 510A the following new subsections :—

(2) Without limiting the generality of subsection one of this section, the council may, by notice in writing, order the owner or occupier of any land used for any of the purposes referred to in paragraphs (a) and (b) of subsection one of this section to do, within a reasonable time to be specified in the notice, such one or more of the following things as may be specified in such notice, that is to say—

- (a) to stack any disused motor vehicles or old machinery or other old or used or second-hand materials on the land in an orderly manner and to the satisfaction of the council in such situation on the land as may be specified in the notice;
- (b) to erect on the land fences or screens of such a kind and in such a position as may be so specified;
- (c) to plant trees within the land in such positions as may be so specified.

(3) If the order is not obeyed the council may enter upon the land and execute the order and may recover the cost in a summary manner from the person to whom the order has been directed but without prejudice to that person's right to recover the cost from any other person liable for such cost.

(4) (a) Any person who has received an order under this section may, within the time and in the manner prescribed by rules of court, appeal against the order to a district court judge having jurisdiction within the district in which the land is situated.

(b) Such judge may summon witnesses, hear evidence, and determine the matter, having regard to this Act, the ordinances, the circumstances of the case, and the public interest.

(c)

Local Government (Amendment).

(c) The decision of such court upon any such appeal shall be final, and shall be binding upon the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council.

(d) If in any decision under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the district court.

(g) by omitting from section 512D the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars".

Sec. 512D.
(Penalty for breaking electric line, etc.)

12. Part XXX of the Principal Act is amended—

Further amendment of Act No. 41, 1919.
Part XXX.
(Supplementary.)

(a) (i) by omitting from subsection one of section six hundred and eleven the words "the council shall pay the same to the Treasury" and by inserting in lieu thereof the words "the council may transfer that balance to such fund as it may deem proper, but shall on application being made by any person entitled thereto pay that balance to that person";

Sec. 611.
(Payment to the Treasury.)

(ii) by omitting from subsection three of the same section the words "subsections one and two" and by inserting in lieu thereof the words "subsection two";

(b) by inserting at the end of section six hundred and fifty-four the following new subsection :—

Sec. 654.
(Disputes between councils, &c., may be submitted to Minister.)

(7) This section shall apply to differences between a county council and one or more other county councils or between a county council and one

Local Government (Amendment).

one or more councils of areas or a department of the Government in the same way as it applies to differences between the councils of any two or more areas or between a council and a department of the Government.

Amendment
of Act No.
23, 1896.
Sec. 32.
(Penalty
for breaking
electric line,
&c.)

13. The Municipal Council of Sydney Electric Lighting Act, 1896, is amended by omitting from section thirty-two the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars".

*In the name and on behalf of Her Majesty I assent to this
Act.*

A. R. CUTLER,
Governor.

*Government House,
Sydney, 13th March, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1970.

An Act to prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 30th September, 1970.]

BE

Local Government (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Local Government (Further Amendment) Act, 1970".

Amendment
of Act No.
41, 1919.

2. The Local Government Act, 1919, is amended—

Sec. 249c.
(Broken
bottles,
etc.)

(a) by inserting at the end of section 249c the following new subsection :—

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

Sec. 278.
(Applica-
tion.)

(b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this";

New
Division
5A of
Part X.

(c) by inserting next after Division 5 of Part X the following new Division :—

DIVISION 5A.—Depositing Litter Prohibited.

Interpre-
tation.

289A. (1) In this Division—

"authorised person" means—

- (a) a servant appointed by the council to be an authorised person for the purposes of this Division;
- (b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

Local Government (Further Amendment).

a statutory body representing the Crown or the Forestry Commission of New South Wales; and

(c) a member of the police force;

"litter" includes any kind of rubbish, refuse, or garbage and any article or matter that when left, deposited, dropped or thrown, or caused to be deposited, left, dropped or thrown, on or on to a public place or public reserve causes, contributes to, or tends to lead to the defacement or defilement of that public place or public reserve;

"public place" includes a State forest or a flora reserve within the meaning of the Forestry Act, 1916, a national park, state park, historic site or aboriginal area within the meaning of the National Parks and Wildlife Act, 1967, and a nature reserve within the meaning of the Fauna Protection Act, 1948.

(2) A reference in this Division to depositing litter on any place includes a reference to leaving, dropping or throwing litter on or on to that place.

(3) A reference—

(a) in section six hundred and thirty-five of this Act to a servant of the council includes a reference to an authorised person referred to in paragraph (b) of the definition of "authorised person" in subsection one of this section;

(b) in section six hundred and forty of this Act—

(i) to the council is, in relation to proceedings instituted or commenced by or under the direction or

on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

- (ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and
- (c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a person committing an offence under this Division or any ordinance made for the purposes of this Division; and
- (d) in paragraph (b) of that subsection to the council is, where such an authorised person finds a person committing such an offence, a reference to the employer of that authorised person.

**Littering
prohibited.**

289B. (1) A person shall not deposit any litter on a public place or public reserve.

(2) Subsection one of this section does not operate to prohibit a person—

- (a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;
- (b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the council;

(c)

Local Government (Further Amendment).

- (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

(4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

Penalty
notices
for
littering.

289C. (1) Where it appears to an authorised person—

- (a) that another person has committed an offence under section 289B of this Act; and
- (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

(2) Any notice under subsection one of this section may be served personally or by post.

(3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and
- (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

(4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

(5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

**Additional
powers of
courts.**

(2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

(3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

Sec. 303.
(Ordinances.)

- (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :—

(r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289c of this Act;

Sec. 644.
(Demanding
name of
offender.)

- (e) by inserting in subsection one of section six hundred and forty-four after the words "of this Act" the words "or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division".

**Further
amendment
of Act No.
41, 1919.**

**New
Division
7A of Part
XIIA.**

- 3.** The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :—

DIVISION 7A.—Objections to certain development.

**Objections
to resi-
dential flat
buildings
and certain
other
development.**

342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall—

- (a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it to own land the enjoyment of which, in the opinion of the responsible authority or the council,

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- council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;
- (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and
 - (c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.

(2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

(3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

(4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

(5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

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application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who owns land and who contends that his enjoyment of the land will be detrimentally affected if the development the subject of the application is carried out.

(6) The responsible authority or the council to which any such application has been made—

- (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to have been refused.

(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be heard as if he were a party to the appeal.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 17 September, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1970.

An Act to prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 30th September, 1970.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Local Government (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Local Government (Further Amendment) Act, 1970".

Amendment of Act No. 41, 1919. **2.** The Local Government Act, 1919, is amended—

Sec. 249c. (Broken bottles, etc.) (a) by inserting at the end of section 249c the following new subsection :—

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

Sec. 278. (Application.) (b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this";

New Division 5A of Part X. (c) by inserting next after Division 5 of Part X the following new Division :—

DIVISION 5A.—*Depositing Litter Prohibited.*

Interpretation. 289A. (1) In this Division—

"authorised person" means—

(a) a servant appointed by the council to be an authorised person for the purposes of this Division;

(b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

a

Local Government (Further Amendment).

a statutory body representing the Crown or the Forestry Commission of New South Wales; and

(c) a member of the police force;

“litter” includes any kind of rubbish, refuse, or garbage and any article or matter that when left, deposited, dropped or thrown, or caused to be deposited, left, dropped or thrown, on or on to a public place or public reserve causes, contributes to, or tends to lead to the defacement or defilement of that public place or public reserve;

“public place” includes a State forest or a flora reserve within the meaning of the Forestry Act, 1916, a national park, state park, historic site or aboriginal area within the meaning of the National Parks and Wildlife Act, 1967, and a nature reserve within the meaning of the Fauna Protection Act, 1948.

(2) A reference in this Division to depositing litter on any place includes a reference to leaving, dropping or throwing litter on or on to that place.

(3) A reference—

(a) in section six hundred and thirty-five of this Act to a servant of the council includes a reference to an authorised person referred to in paragraph (b) of the definition of “authorised person” in subsection one of this section;

(b) in section six hundred and forty of this Act—

(i) to the council is, in relation to proceedings instituted or commenced by or under the direction or

on

Local Government (Further Amendment).

on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

(ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

(c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person finds a person committing such an offence, a reference to the employer of that authorised person.

Littering
prohibited.

289B. (1) A person shall not deposit any litter on a public place or public reserve.

(2) Subsection one of this section does not operate to prohibit a person—

(a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;

(b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the council;

(c)

Local Government (Further Amendment).

- (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

(4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- (c) the circumstances in which litter is deposited;

(d)

Local Government (Further Amendment).

Penalty
notices
for
littering.

- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

289C. (1) Where it appears to an authorised person—

- (a) that another person has committed an offence under section 289B of this Act; and
- (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as "the collector"), being a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

(2) Any notice under subsection one of this section may be served personally or by post.

(3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and
- (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

Local Government (Further Amendment).

specified or within such further time as may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

(4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

(5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge.

**Additional
powers of
courts.**

(2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

(3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

Local Government (Further Amendment).

manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

Sec. 303.
(Ordinances.)

(d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :—

(r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289c of this Act;

Sec. 644.
(Demanding
name of
offender.)

(e) by inserting in subsection one of section six hundred and forty-four after the words “of this Act” the words “or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division”.

Further
amendment
of Act No.
41, 1919.
New
Division
7A of Part
XIIA.

3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :—

DIVISION 7A.—*Objections to certain development.*

Objections
to resi-
dential flat
buildings
and certain
other
development.

342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall—

(a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it to own land the enjoyment of which, in the opinion of the responsible authority or the council,

Local Government (Further Amendment).

council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out;

- (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and
- (c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.

(2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

(3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

(4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

(5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

Local Government (Further Amendment).

application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who owns land and who contends that his enjoyment of the land will be detrimentally affected if the development the subject of the application is carried out.

(6) The responsible authority or the council to which any such application has been made—

- (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to have been refused.

(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be heard as if he were a party to the appeal.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor

Government House,
Sydney, 30th September, 1970.