

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.

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

*Legislative Assembly Chamber,
Sydney, 8 November, 1972.*

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. , 1972.

An Act to make further provision with respect to the powers, authorities, duties and functions of councils and county councils; to confer a right of appeal on certain persons to the Local Government Appeals Tribunal; for these and other purposes to amend the Local Government Act, 1919, and the Conveyancing (Strata Titles) Act, 1961; to make provision relating to the transfer of persons to the service of the Manning River County Council; to validate certain matters; and for purposes connected therewith.

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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Local Government Short title (Further Amendment) Act, 1972".

2. (1) This Act (sections 5, 6, 7, 10, 11, 12 and 13 excepted) shall commence on the date of assent to this Act. Commencement.

(2) Sections 5, 6, 7 and 11 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 10 shall be deemed to have commenced on 1st September, 1972.

(4) Section 12 shall commence on the date of commencement of section 5.

(5) Section 13 shall commence on the date of commencement of section 6.

3. The Local Government Act, 1919, is in this Act referred to as the Principal Act. Construction.

4.

Local Government (Further Amendment).

4. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1-4.

PART II.—AMENDMENTS OF ACTS—ss. 5-11.

PART III.—SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS—ss. 12-18.

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DIVISION 1.—Provisions respecting Part II—ss. 12-15.

DIVISION 2.—Provisions respecting county councils—ss. 16-18.

PART II.

10

AMENDMENTS OF ACTS.

5. Part X of the Principal Act is amended by omitting from section 289 (m) the following words :—

Amendment
of Act No.
41, 1919.

15 Any owner who has been served with a notice under this paragraph may within the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

(Part X.—
Public
Health,
Safety, and
Con-
venience.)
Sec. 289.

20 Such judge may determine whether the direction of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications, and may extend the time within which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

(Various
powers of
the council.)

25 If costs are awarded they may be recovered in like manner to costs awarded in a judgment of the district court.

The

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The decision of such judge 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.

5 and by inserting instead the following words :—

Any owner who has been served with a notice under this paragraph may, within one month after service of the notice upon him, appeal to the Tribunal against the direction given in the notice.

10 Where an appeal is made under this paragraph against a direction, a reference in Part XII B to a decision of a council, howsoever expressed, includes a reference to that direction.

6. Part XI of the Principal Act is amended—

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

15 (a) by omitting section 317B (4) and by inserting instead the following subsections :—

Sec. 317B. (Repair or demolition of existing buildings.)

(4) Where there is a sale under subsection (3), the council—

20 (a) if the proceeds of the sale exceed the expenses incurred by the council in relation to the execution of the order and the sale—

(i) may deduct out of the proceeds an amount equal to those expenses ; and

25 (ii) shall pay the surplus on demand to the owner ; or

(b) if the proceeds of the sale do not exceed those expenses—

(i) may retain the proceeds; and

(ii)

Local Government (Further Amendment).

(ii) may recover the deficiency, if any, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

5 (4A) Where—

(a) the council demolishes the building or any part thereof but does not sell the materials under subsection (3); or

10 (b) the execution of the order does not involve any such demolition,

the council may recover all expenses incurred by it in relation to the execution of the order, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

15 (4B) Nothing in subsection (4) or (4A) affects the owner's right to recover any amount from any lessee or other person liable for the expenses of repairs.

20 (4C) A reference in subsection (4) or (4A) to costs is a reference to costs incurred by the council in seeking to recover the deficiency or expenses otherwise than by proceedings in a court, but nothing in this section prevents the council from receiving costs as between party and party in
25 respect of those proceedings.

(b) by omitting section 317BA;

Sec. 317BA.
(Demolition
of
residential
buildings.)

(c) by omitting from the heading to Division 4B the Division 4B.
word "escapes" and by inserting instead the word (Heading.)
"precautions";

(d)

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(d) (i) by omitting section 317D (1) and by inserting instead the following subsections :—

Sec. 317D.
(Fire escapes, fire-fighting equipment, etc.)

5 (1) The council, for the purpose of ensuring that adequate provision is made in or in connection with a building for all or any of the following matters, namely—

- (a) the safety of persons in the building in the event of fire ;
- (b) the prevention of fire ;
- 10 (c) the suppression of fire ; and
- (d) the prevention of the spread of fire,

may, by resolution—

- 15 (e) direct that such works (whether in the nature of alterations or otherwise) as may be specified in the resolution be carried out; or
- (f) direct that such fire-fighting equipment as may be so specified be provided,

or give both such directions.

20 (1A) Without affecting the generality of subsection (1), the council may, under subsection (1) (e), direct that any or all of the following works be carried out in or in connection with the building, namely—

- 25 (a) that means of escape or egress be provided ;
- (b) that automatic sprinklers or drenchers be installed ; and
- 30 (c) that provision be made for the protection from fire of means of escape or egress.

(ii)

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- (ii) by omitting from section 317D (2) the words “automatic sprinklers or drenchers” and by inserting instead the words “equipment or any part thereof”;
- 5 (e) (i) by omitting from section 317E (a) the words “on a date mentioned in the notice (being not less than one month after the service thereof)”;
Sec. 317E.
(Notice to owners and others.)
- (ii) by inserting in section 317E (a) after the word “may” the words “, within one month after the service thereof,”;
- 10 (iii) by omitting from section 317E (c) the words “at a time to be specified in the notice (not being less than three months after the date of service of the notice)” and by inserting instead the words “before the expiration of such period (being not less than two months) next following the date of adoption as may be specified in the notice,”;
- 15 (iv) by inserting in section 317E (c) after the words “completed within such” the word “further”;
- 20 (v) by omitting section 317E (d) and by inserting instead the following paragraph :—
 - 25 (d) that equipment to be provided in accordance with the resolution, if adopted, shall be provided before the expiration of such period next following the adoption of the resolution as may be specified in the notice;
- 30 (vi) by omitting from section 317E (e) the words “as from a date to be specified in the notice (not being less than one month after the date of service of the notice)” and by inserting instead the words “upon the expiration of such period next following the date of adoption as may be specified in the notice”;
- 35

(f)

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- (f) by omitting section 317F and by inserting instead the following section :— Subst. sec. 317F.

5 317F. The owner of the building and any person who may be affected by a resolution of the council referred to in section 317D (whether that person has been served with a notice or not) may, by himself or by any person on his behalf, object to the Tribunal against the resolution— Making of objection.

10 (a) where a notice was served on him—within one month after the service thereof; or

 (b) where a notice was not served on him—during the period when any other person upon whom a notice was served in relation to the resolution may so object.

15 (g) by omitting from section 317G the words “Upon the date mentioned in the notice or on any date to which the consideration of the matter may be adjourned, the” and by inserting instead the word “The”; Sec. 317G. (Proce- dure.)

20 (h) (i) by omitting from section 317H the words “specified in the notice”; Sec. 317H. (Extension of time.)

 (ii) by inserting in section 317H after the word “relates” the words “or may, if the resolution contains any direction referred to in subsection (2) of section 317D, extend the period upon the expiration of which the direction shall become operative”;

25 (i) by inserting at the end of section 317J the following new subsections :— Sec. 317J. (Comple- tion of work.)

30 (5) Any person who fails to comply with a direction referred to in subsection (1) shall be guilty of an offence under this Act.

 Penalty: Five hundred dollars and, for each day the offence continues, a further fifty dollars.

(6)

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(6) In the event of a failure to comply with a direction referred to in subsection (1)—

- 5 (a) proceedings may be instituted for an offence arising under subsection (5) notwithstanding that the council is exercising or has exercised all or any of its powers under subsections (2), (3) and (4) in relation to the failure; or
- 10 (b) the council may exercise all or any of those powers in relation to the failure notwithstanding that proceedings have been instituted for such an offence.

15 (7) Section 632 does not apply to a failure to comply with a direction referred to in subsection (1).

- (j) (i) by omitting from section 319 (1) the following paragraph :—
- (d) generally for carrying into effect the purposes of the ordinance.

Sec. 319.
(Additional provisions re ordinances.)

20 and by inserting instead the following paragraphs :—

- 25 (e) for the classification of buildings or portions of buildings according to the purpose or purposes for which they are intended or apparently intended to be used or by reference to any other matters;
- 30 (f) for the issue by the council of certificates of classification of buildings and for the revocation or amendment of any such certificates;
- (g) for the conditions under which buildings or portions of buildings of one

classification

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classification may be adapted for use as buildings or portions of buildings of another classification ;

5 (h) for the establishment of fire zones in an area ;

(i) for the application of special provisions in respect of the erection of buildings in a fire zone ;

10 (j) for enabling or requiring the submission to the council of certificates of or reports by competent persons or bodies in respect of aspects of building design, or the use in or in connection with buildings of particular materials or combinations of materials, or forms or methods of construction of buildings ;

15 (k) generally for carrying into effect the purposes of the ordinance.

20 (ii) by omitting section 319 (2) and by inserting instead the following subsection :—

(2) Any such ordinance may adopt wholly or partially or by reference any codes, rules, specifications or provisions which relate to any matter with which the ordinance deals and which are—

25 (a) recommended or adopted by the Standards Association of Australia ;

(b) recommended or adopted by—

30 (i) the American Society for Testing Materials, the British Standards Institution or the International Organization for Standardization ; or

(ii)

Local Government (Further Amendment).

- 5 (ii) any other standards organisation or body of any place outside Australia, being an organisation or body declared by the Minister by order published in the Gazette to be an approved standards organisation or body for the purposes of this subsection;
- 10 (c) included in any document issued by any Department of the Crown in right of this or any other State or the Commonwealth or issued by any instrumentality of this or any other State or the Commonwealth constituted by an Act of the Parliament thereof; or
- 15 (d) approved by the Minister and published in the Gazette.

- 20 7. Part XXIII of the Principal Act is amended by inserting at the end of section 510 the following new subsections :—
- (3) A person who is aggrieved by any decision of the council (whether the decision relates to a direction given by the council or otherwise) in the exercise or performance of its powers, authorities, duties or functions under subsection (1), or under any ordinance relating thereto, may appeal to the Tribunal against the decision of the council.
- 25

Further amendment of Act No. 41, 1919.

(Part XXIII.—Miscellaneous Powers.)

Sec. 510. (Advertisements.)

- (4) Where the council gives a written notice to a person of any decision from which an appeal lies under subsection (3), the notice shall indicate that he has a right of appeal under this Act.
- 30

Local Government (Further Amendment).

8. Part XXIX of the Principal Act is amended by inserting in section 564 (3) after the words "noxious plants" the words ", or to the construction, extension, protection, maintenance, control and management of works for the supply of electricity, the supply of electricity and the supply and installing of electrical fittings and appliances".
- Further amendment of Act No. 41, 1919. (Part XXIX.—County Councils.) Sec. 564. (Powers.)
9. Part XXX of the Principal Act is amended—
- (a) by omitting section 577 (1) (c) and by inserting instead the following paragraph :—
- (c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.
- (b) by omitting section 577 (2) and by inserting instead the following subsections :—
- (2) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after an ordinance has been laid before it, disallowing the ordinance or any part thereof, the ordinance or part thereupon ceases to have effect.
- (2A) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session.
10. The Conveyancing (Strata Titles) Act, 1961, is amended—
- (a) by omitting from section 20 (3) the words "Land and Valuation Court in accordance with the provisions of section 342N of the Local Government Act, 1919, as amended by subsequent Acts, and
- Further amendment of Act No. 41, 1919. (Part XXX.—Supplementary.) Sec. 577. (Publication and commencement.)
- Amendment of Act No. 17, 1961. Sec. 20. (Approval of sub-division.)

the

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5 the provisions of that section shall extend mutatis mutandis to and in respect of such appeal” and by inserting instead the words “Local Government Appeals Tribunal constituted under Part XII B of the Local Government Act, 1919”;

(b) by omitting from section 20 (5) the words “Land and Valuation Court” and by inserting instead the words “Tribunal referred to in subsection (3)”.

10 **11.** The Conveyancing (Strata Titles) Act, 1961, is further amended by inserting next after section 20 (2) the following new subsections :—

Further amendment of Act No. 17, 1961.

15 (2A) The local council to which an application for the issue of the certificate referred to in subsection (2) is made shall cause notice of its decision on the application to be given to the applicant.

Sec. 20. (Approval of sub-division.)

20 (2B) Where the local council refuses to grant an application for the issue of the certificate referred to in subsection (2), the reasons for the local council’s decision shall be indicated in the notice given under subsection (2A), which shall also indicate that the applicant has a right of appeal under this section against the decision of the local council.

PART III.

SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS.

25 **DIVISION 1.—Provisions respecting Part II.**

12. (1) In this section, “appeal” means appeal under section 289 (m) of the Principal Act.

Pending, etc., appeals under section 289 (m) of Principal Act: section 5.

30 (2) An appeal made before the commencement of this section shall, whether or not the hearing of the appeal has commenced, be heard and dealt with in all respects as if this Act had not been enacted.

(3)

Local Government (Further Amendment).

(3) For the purposes only of hearing and dealing with an appeal as referred to in subsection (2), the provisions of section 289 (m) of the Principal Act, as in force immediately before the commencement of section 5, relating to any such appeal shall continue in force notwithstanding any other provisions of this Act.

(4) The decision of the District Court judge on any appeal referred to in subsection (2) shall have the same force and effect as it would have had if this Act had not been enacted.

(5) Where an appeal had not been made before the commencement of this section but could, but for the enactment of this Act, have been made, immediately after that commencement, to a District Court judge—

- (a) the appeal may be made to the Local Government Appeals Tribunal under the provisions of the Principal Act, as amended by section 5; and
- (b) section 289 (m) of that Act, as so amended, shall, for the purposes only of so making the appeal, be deemed to be amended by omitting the words "one month" and by inserting instead the words "sixty days".

13. (1) The provisions of section 317B of the Principal Act shall continue to apply to and in respect of an order in force under that section immediately before the commencement of section 6 in all respects as if the amendments made by section 6 (a) had not been made. Savings: section 6.

(2) The provisions of Division 4B of Part XI of the Principal Act shall continue to apply to and in respect of any resolution in force under that Division immediately before the commencement of section 6, whether or not the resolution was adopted under that Division, in all respects as if the amendments made to that Division by section 6 had not been made.

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14. (1) In this section, "appeal" means appeal under section 20 of the Conveyancing (Strata Titles) Act, 1961.

Appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

5 (2) Section 11 of the Local Government (Appeals) Amendment Act, 1971, applies, and shall be deemed to have applied, to and in respect of an appeal, other than an appeal referred to in subsection (3) or (4), as if section 10 of this Act had been enacted as part of that Act.

10 (3) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, the Land and Valuation Court purported to give a decision in an appeal, the decision shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

15 (4) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, an appeal, being an appeal pending at the commencement of this section, was made to, or was commenced or continued to be heard by, the Land and Valuation Court, the making or hearing of the appeal shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

15. (1) In this section, "appeal" means appeal referred to in section 14 (4).

Pending appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

(2) An appeal shall—

25 (a) if the hearing of the appeal has commenced, continue to be heard and dealt with in all respects as if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted; or

30 (b) if the hearing of the appeal has not commenced, be deemed to be an appeal made to the Local Government Appeals Tribunal.

(3)

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5 (3) For the purposes only of continuing to hear and deal with an appeal as referred to in subsection (2) (a), the provisions of section 20 of the Conveyancing (Strata Titles) Act, 1961, and the Principal Act, as respectively in force immediately before the commencement of the Local Government (Appeals) Amendment Act, 1971, shall be deemed to have continued and to continue in force notwithstanding any provision of the Local Government (Appeals) Amendment Act, 1971, or any other provision of this Act.

10 (4) The decision of the Land and Valuation Court on any appeal referred to in subsection (2) (a) shall have the same force and effect as it would have had if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted.

15 (5) The Registrar of the Land and Valuation Court shall, as soon as practicable after the commencement of this section, forward to the Local Government Appeals Tribunal all documents held by him and relating to any appeal referred to in subsection (2) (b).

20 DIVISION 2.—*Provisions respecting county councils.*

25 **16.** (1) A proclamation which purported to be made under the Principal Act, as in force when the proclamation was made, and which was published before the commencement of this section, and by which any power or duty purported to be delegated to a county council, shall be deemed to have been and to be valid and effectual notwithstanding that a request for the delegation was not made, under and in accordance with section 564 (2) of that Act, by a majority of the constituent councils and notwithstanding any defect in the proclamation.

Validation:
functions,
powers and
duties of
county
councils.

30 (2) Where, before the commencement of the Local Government (Amendment) Act, 1959—

(a) the boundaries of a county district were altered by adding thereto any area or part of an area, the provisions of section 564 (3A) of the Principal Act

shall

Local Government (Further Amendment).

shall be deemed to have applied to and in respect of the council of the county district, and shall be deemed to have so applied—

- 5 (i) as if those provisions had been in force at the time of the alteration of the boundaries; and
- 10 (ii) as if a reference in those provisions to the date specified in the proclamation altering the boundaries of the county district were a reference to the date specified in that proclamation or a subsequent proclamation relating to that alteration as the date from which the council of the county district purported to be substituted for the council of that area, or, where no such date was so
- 15 specified, to the date on which that alteration took effect;
- 20 (b) two or more county districts were united, the provisions of section 564 (3B) of the Principal Act shall be deemed to have applied to and in respect of the council of the united county district, and shall be deemed to have so applied—
- 25 (i) as if those provisions had been in force at the time of the union;
- (ii) as if those provisions had been amended by omitting the words “under this Part”; and
- 30 (iii) as if a reference in those provisions to the date specified in the proclamation uniting the county districts were a reference to the date on which the union took effect; and
- 35 (c) the boundaries of a county district were altered by excluding therefrom the whole or part of a constituent area without at the same time adding it to another county district, the provisions of section 564 (3C) of the Principal Act shall be deemed to have applied to and in respect of the
- 66—B council

Local Government (Further Amendment).

council of the county district and the council of the constituent area, and shall be deemed to have so applied as if those provisions had been in force at the time of the alteration of the boundaries.

5 (3) Where, after the commencement of the Local Government (Amendment) Act, 1959, and before the commencement of this section, a date was not specified in a proclamation referred to in section 564 (3A) or (3B) of the Principal Act as the date as on and from which the functions,
10 powers and duties referred to therein shall be deemed to be delegated thereunder—

(a) the proclamation shall be deemed to have been and to be valid and effectual notwithstanding that such a date was not so specified;

15 (b) the date on which the alteration of boundaries or the union of county districts, as the case may be, took effect shall be deemed to have been specified in the proclamation as the date as on and from which those functions, powers and duties shall be
20 deemed to be delegated; and

(c) section 564 (3A) or (3B) of the Principal Act, as the case may be, shall be deemed to have operated accordingly.

(4) A person is not guilty of an offence arising by
25 virtue of any act, matter or thing done or omitted to be done before the commencement of this section, being an offence of which he would not be guilty if this section had not been enacted.

(5) Nothing in subsection (2) applies to or in respect
30 of the alteration of the boundaries of the Prospect County District and the Central West County District in so far as those boundaries were altered by the proclamations referred to in section 8 (2) (b) (iii) of the Local Government (Amendment) Act, 1959.

(6)

Local Government (Further Amendment).

(6) Without affecting the generality of the operation of subsection (2), that subsection applies to and in respect of the alteration of the boundaries of the Upper Hunter County District effected by the proclamation published in Gazette
5 No. 165 of 13th December, 1957, with respect to that county district.

17. (1) In this section—

Validation:
Manning
River
County
District.

10 “constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

“the County Council” means the Manning River County Council;

“the County District” means the Manning River County District;

15 “the relevant period” means the period commencing on 24th December, 1965, and ending on 31st December, 1971.

(2) Subject to subsection (3)—

20 (a) any act, matter or thing that was, during the relevant period—

25 (i) done by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District, and would have been lawful if done by the County Council, and would, but for this subsection, have been unlawful, is validated, and shall be deemed to have been done by the County Council; or

30 (ii) suffered by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District shall be deemed to have been suffered by the County Council; and

(b)

Local Government (Further Amendment).

- (b) without affecting the generality of paragraph (a)—
- 5 (i) all moneys and liquidated and unliquidated claims which immediately before the commencement of this section were payable to or recoverable by the constituent council in connection with the act, matter or thing shall respectively be moneys and liquidated and unliquidated claims payable to or recoverable by the County Council;
 - 10 (ii) all proceedings pending immediately before the commencement of this section at the suit of the constituent council in connection with the act, matter or thing shall be proceedings pending at the suit of the County Council;
 - 15 and
 - 20 (iii) all liquidated and unliquidated claims in connection with the act, matter or thing and for which the constituent council would, but for this section, have been liable shall be liquidated and unliquidated claims for which the County Council shall be liable.
- (3) Any rates, charges and fees purporting to be made and levied by a constituent council during the relevant period in connection with the supply of water shall be deemed
- 25 to have been—
- (a) validly made by the County Council; and
 - (b) validly levied by the constituent council in pursuance of a requirement under section 572 of the Principal Act.
- 30 (4) The transfer before the commencement of this section to the County Council of any assets belonging to or held by a constituent council as at 31st December, 1971, in connection with works of water supply or the supply of water is validated.

(5)

Local Government (Further Amendment).

(5) Any charges purporting to be made by the County Council and imposed by it on a constituent council during the relevant period in connection with works of water supply or the supply of water shall be deemed to have been
 5 validly made and validly imposed, and any amount owing by the constituent council in respect of those charges at the commencement of this section shall be payable to the County Council forthwith after that commencement and recoverable by it as a debt in a court of competent jurisdiction.

10 **18.** (1) In this section—

“constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

Servants of Manning River County Council and constituent councils.

15 “the County Council” means the Manning River County Council;

“the transferring proclamation” means the proclamation published in Gazette No. 11 of 28th January, 1966, in respect of the County Council, under the Local Government Act, 1919, as in force on that date.

20 (2) Any person who, immediately before 1st March, 1966, was a servant of a constituent council shall be deemed to have continued on and after that day as a servant of the constituent council in all respects as if the transferring proclamation had never taken effect.

25 (3) Each constituent council shall confer with the County Council and—

30 (a) agree as to whether or not any of the persons who, at the commencement of this section, are servants of the constituent council and who, immediately before that commencement, were, whether wholly, principally or partly, employed in or in connection with works of water supply or the supply of water should be transferred to the service of the County Council; and

(b)

Local Government (Further Amendment).

(b) if they agree that any persons should be so transferred, shall agree upon an arrangement as to which of those persons so employed should be so transferred.

5 (4) In the event of any failure to agree under subsection (3) within one month after the commencement of this section or within such further period as the Minister may allow, the Minister may determine the question and, where appropriate, make an arrangement as to which persons should
10 be transferred to the service of the County Council.

(5) An arrangement under this section shall be embodied in a proclamation.

(6) On the date specified in that behalf in the proclamation embodying an arrangement under this section—

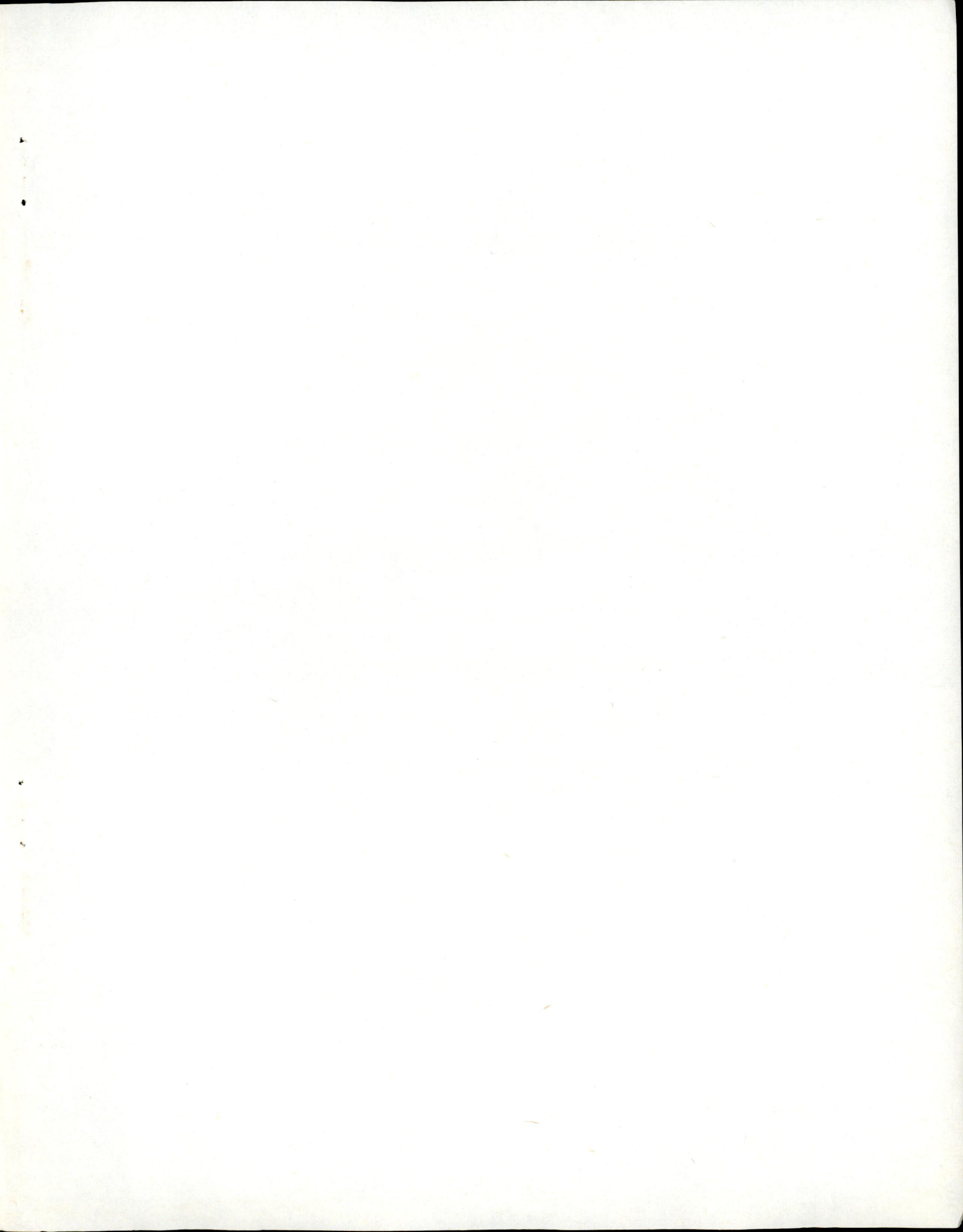
15 (a) each of the persons included in the arrangement shall be transferred to the service of the County Council from the service of the constituent council to which the arrangement relates; and

20 (b) the provisions of section 564B (1) (m) of the Principal Act shall apply to and in respect of each of those persons, the County Council and the constituent council as if the transfer had been effected by the operation of section 564B (1) (m) (i) (a) thereof and as if a reference in section
25 564B (1) (m) thereof to the date of delegation were a reference to the date so specified in the proclamation.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

[20c]



No. , 1972.

A BILL

To make further provision with respect to the powers, authorities, duties and functions of councils and county councils; to confer a right of appeal on certain persons to the Local Government Appeals Tribunal; for these and other purposes to amend the Local Government Act, 1919, and the Conveyancing (Strata Titles) Act, 1961; to make provision relating to the transfer of persons to the service of the Manning River County Council; to validate certain matters; and for purposes connected therewith.

[MR CUTLER—21 *September*, 1972.]

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:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Local Government Short title.
(Further Amendment) Act, 1972".

10 2. (1) This Act (sections 5, 6, 7, 10, 11, 12 and 13 Commence-
excepted) shall commence on the date of assent to this Act. ment.

(2) Sections 5, 6, 7 and 11 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in
15 the Gazette.

(3) Section 10 shall be deemed to have commenced on 1st September, 1972.

(4) Section 12 shall commence on the date of commencement of section 5.

20 (5) Section 13 shall commence on the date of commencement of section 6.

3. The Local Government Act, 1919, is in this Act Construc-
referred to as the Principal Act. tion.

4.

Local Government (Further Amendment).

4. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—AMENDMENTS OF ACTS—ss. 5–11.

5 PART III.—SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS—ss. 12–18.

DIVISION 1.—*Provisions respecting Part II*—ss. 12–15.

DIVISION 2.—*Provisions respecting county councils*—ss. 16–18.

10 PART II.

AMENDMENTS OF ACTS.

5. Part X of the Principal Act is amended by omitting from section 289 (m) the following words :—

Amendment
of Act No.
41, 1919.

15 Any owner who has been served with a notice under this paragraph may within the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

(Part X.—
Public
Health,
Safety, and
Con-
venience.)
Sec. 289.

20 Such judge may determine whether the direction of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications, and may extend the time within which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

(Various
powers of
the council.)

25 If costs are awarded they may be recovered in like manner to costs awarded in a judgment of the district court.

The

Local Government (Further Amendment).

The decision of such judge 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.

5 and by inserting instead the following words :—

Any owner who has been served with a notice under this paragraph may, within one month after service of the notice upon him, appeal to the Tribunal against the direction given in the notice.

10 Where an appeal is made under this paragraph against a direction, a reference in Part XII B to a decision of a council, howsoever expressed, includes a reference to that direction.

6. Part XI of the Principal Act is amended—

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

15 (a) by omitting section 317B (4) and by inserting instead the following subsections :—

Sec. 317B.
(Repair or
demolition
of existing
buildings.)

(4) Where there is a sale under subsection (3), the council—

20 (a) if the proceeds of the sale exceed the expenses incurred by the council in relation to the execution of the order and the sale—

(i) may deduct out of the proceeds an amount equal to those expenses; and

25 (ii) shall pay the surplus on demand to the owner; or

(b) if the proceeds of the sale do not exceed those expenses—

(i) may retain the proceeds; and

(ii)

Local Government (Further Amendment).

(ii) may recover the deficiency, if any, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

5 (4A) Where—

(a) the council demolishes the building or any part thereof but does not sell the materials under subsection (3); or

10 (b) the execution of the order does not involve any such demolition,

the council may recover all expenses incurred by it in relation to the execution of the order, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

15 (4B) Nothing in subsection (4) or (4A) affects the owner's right to recover any amount from any lessee or other person liable for the expenses of repairs.

20 (4C) A reference in subsection (4) or (4A) to costs is a reference to costs incurred by the council in seeking to recover the deficiency or expenses otherwise than by proceedings in a court, but nothing in this section prevents the council from receiving costs as between party and party in
25 respect of those proceedings.

(b) by omitting section 317BA;

Sec. 317BA.
(Demolition
of
residential
buildings.)

(c) by omitting from the heading to Division 4B the word "escapes" and by inserting instead the word "precautions";

(d)

Local Government (Further Amendment).

(d) (i) by omitting section 317D (1) and by inserting instead the following subsections :—

Sec. 317D.
(Fire escapes, fire-fighting equipment, etc.)

5 (1) The council, for the purpose of ensuring that adequate provision is made in or in connection with a building for all or any of the following matters, namely—

- (a) the safety of persons in the building in the event of fire ;
- (b) the prevention of fire ;
- 10 (c) the suppression of fire ; and
- (d) the prevention of the spread of fire,

may, by resolution—

- 15 (e) direct that such works (whether in the nature of alterations or otherwise) as may be specified in the resolution be carried out; or
- (f) direct that such fire-fighting equipment as may be so specified be provided,

or give both such directions.

20 (1A) Without affecting the generality of subsection (1), the council may, under subsection (1) (e), direct that any or all of the following works be carried out in or in connection with the building, namely—

- 25 (a) that means of escape or egress be provided ;
- (b) that automatic sprinklers or drenchers be installed ; and
- 30 (c) that provision be made for the protection from fire of means of escape or egress.

(ii)

Local Government (Further Amendment).

- (ii) by omitting from section 317D (2) the words "automatic sprinklers or drenchers" and by inserting instead the words "equipment or any part thereof";
- 5 (e) (i) by omitting from section 317E (a) the words Sec. 317E.
(Notice to
owners and
others.) "on a date mentioned in the notice (being not less than one month after the service thereof)";
- (ii) by inserting in section 317E (a) after the word
10 "may" the words " , within one month after the service thereof,";
- (iii) by omitting from section 317E (c) the words
15 "at a time to be specified in the notice (not being less than three months after the date of service of the notice)" and by inserting instead the words "before the expiration of such period (being not less than two months) next following the date of adoption as may be specified in the notice,";
- (iv) by inserting in section 317E (c) after the
20 words "completed within such" the word "further";
- (v) by omitting section 317E (d) and by inserting
instead the following paragraph :—
- (d) that equipment to be provided in
25 accordance with the resolution, if adopted, shall be provided before the expiration of such period next following the adoption of the resolution as may be specified in the notice;
- (vi) by omitting from section 317E (e) the words
30 "as from a date to be specified in the notice (not being less than one month after the date of service of the notice)" and by inserting instead the words "upon the expiration of such
35 period next following the date of adoption as may be specified in the notice";

(f)

Local Government (Further Amendment).

- (f) by omitting section 317F and by inserting instead the following section :— Subst. sec. 317F.

5 317F. The owner of the building and any person who may be affected by a resolution of the council referred to in section 317D (whether that person has been served with a notice or not) may, by himself or by any person on his behalf, object to the Tribunal against the resolution— Making of objection.

10 (a) where a notice was served on him—within one month after the service thereof; or

 (b) where a notice was not served on him—during the period when any other person upon whom a notice was served in relation to the resolution may so object.

15 (g) by omitting from section 317G the words “Upon the date mentioned in the notice or on any date to which the consideration of the matter may be adjourned, the” and by inserting instead the word “The”; Sec. 317G. (Proce- dure.)

20 (h) (i) by omitting from section 317H the words “specified in the notice”; Sec. 317H. (Extension of time.)

 (ii) by inserting in section 317H after the word “relates” the words “or may, if the resolution contains any direction referred to in subsection (2) of section 317D, extend the period upon the expiration of which the direction shall become operative”;

25 (i) by inserting at the end of section 317J the following new subsections :— Sec. 317J. (Comple- tion of work.)

30 (5) Any person who fails to comply with a direction referred to in subsection (1) shall be guilty of an offence under this Act.

 Penalty: Five hundred dollars and, for each day the offence continues, a further fifty dollars.

Local Government (Further Amendment).

(6) In the event of a failure to comply with a direction referred to in subsection (1)—

- 5 (a) proceedings may be instituted for an offence arising under subsection (5) notwithstanding that the council is exercising or has exercised all or any of its powers under subsections (2), (3) and (4) in relation to the failure; or
- 10 (b) the council may exercise all or any of those powers in relation to the failure notwithstanding that proceedings have been instituted for such an offence.

15 (7) Section 632 does not apply to a failure to comply with a direction referred to in subsection (1).

- (j) (i) by omitting from section 319 (1) the following paragraph :— Sec. 319.
(Additional provisions re ordinances.)
- (d) generally for carrying into effect the purposes of the ordinance.

20 and by inserting instead the following paragraphs :—

- 25 (e) for the classification of buildings or portions of buildings according to the purpose or purposes for which they are intended or apparently intended to be used or by reference to any other matters;
- 30 (f) for the issue by the council of certificates of classification of buildings and for the revocation or amendment of any such certificates;
- (g) for the conditions under which buildings or portions of buildings of one

classification

Local Government (Further Amendment).

classification may be adapted for use as buildings or portions of buildings of another classification;

5 (h) for the establishment of fire zones in an area;

(i) for the application of special provisions in respect of the erection of buildings in a fire zone;

10 (j) for enabling or requiring the submission to the council of certificates of or reports by competent persons or bodies in respect of aspects of building design, or the use in or in connection with buildings of particular materials or combinations of materials, or forms or methods of construction of buildings;

15 (k) generally for carrying into effect the purposes of the ordinance.

20 (ii) by omitting section 319 (2) and by inserting instead the following subsection :—

(2) Any such ordinance may adopt wholly or partially or by reference any of the standard rules or specifications which relate to any matter with which the ordinance deals and which are—

25 (a) recommended or adopted by the Standards Association of Australia;

(b) recommended or adopted by—

30 (i) the American Society for Testing Materials, the British Standards Institution or the International Organization for Standardization; or

(ii)

Local Government (Further Amendment).

- 5 (ii) any other standards organisation or body of any place outside Australia, being an organisation or body declared by the Minister by order published in the Gazette to be an approved standards organisation or body for the purposes of this subsection;
- 10 (c) included in any document issued by any Department of the Crown in right of this or any other State or the Commonwealth or issued by any instrumentality of this or any other State or the Commonwealth constituted by an Act of the Parliament thereof; or
- 15 (d) approved by the Minister and published in the Gazette.

20 7. Part XXIII of the Principal Act is amended by inserting at the end of section 510 the following new subsections :—

(3) A person who is aggrieved by any decision of the council (whether the decision relates to a direction given by the council or otherwise) in the exercise or performance of its powers, authorities, duties or functions under subsection (1), or under any ordinance relating thereto, may appeal to the Tribunal against the decision of the council.

30 (4) Where the council gives a written notice to a person of any decision from which an appeal lies under subsection (3), the notice shall indicate that he has a right of appeal under this Act.

Further amendment of Act No. 41, 1919. (Part XXIII.—Miscellaneous Powers.) Sec. 510. (Advertisements.)

Local Government (Further Amendment).

8. Part XXIX of the Principal Act is amended by inserting in section 564 (3) after the words "noxious plants" the words ", or to the construction, extension, protection, maintenance, control and management of works for the supply of electricity, the supply of electricity and the supply and installing of electrical fittings and appliances".
- Further amendment of Act No. 41, 1919. (Part XXIX.—County Councils.) Sec. 564. (Powers.)
9. Part XXX of the Principal Act is amended—
- (a) by omitting section 577 (1) (c) and by inserting instead the following paragraph :—
- (c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.
- (b) by omitting section 577 (2) and by inserting instead the following subsections :—
- (2) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after an ordinance has been laid before it, disallowing the ordinance or any part thereof, the ordinance or part thereupon ceases to have effect.
- (2A) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session.
10. The Conveyancing (Strata Titles) Act, 1961, is amended—
- (a) by omitting from section 20 (3) the words "Land and Valuation Court in accordance with the provisions of section 342N of the Local Government Act, 1919, as amended by subsequent Acts, and
- Further amendment of Act No. 41, 1919. (Part XXX.—Supplementary.) Sec. 577. (Publication and commencement.)
- Amendment of Act No. 17, 1961. Sec. 20. (Approval of sub-division.)

the

Local Government (Further Amendment).

5 the provisions of that section shall extend mutatis mutandis to and in respect of such appeal” and by inserting instead the words “Local Government Appeals Tribunal constituted under Part XII B of the Local Government Act, 1919”;

(b) by omitting from section 20 (5) the words “Land and Valuation Court” and by inserting instead the words “Tribunal referred to in subsection (3)”.

10 **11.** The Conveyancing (Strata Titles) Act, 1961, is further amended by inserting next after section 20 (2) the following new subsections :—

15 (2A) The local council to which an application for the issue of the certificate referred to in subsection (2) is made shall cause notice of its decision on the application to be given to the applicant.

20 (2B) Where the local council refuses to grant an application for the issue of the certificate referred to in subsection (2), the reasons for the local council’s decision shall be indicated in the notice given under subsection (2A), which shall also indicate that the applicant has a right of appeal under this section against the decision of the local council.

PART III.

SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS.

25 **DIVISION 1.—Provisions respecting Part II.**

12. (1) In this section, “appeal” means appeal under section 289 (m) of the Principal Act.

(2) An appeal made before the commencement of this section shall, whether or not the hearing of the appeal has commenced, be heard and dealt with in all respects as if this Act had not been enacted.

(3)

Local Government (Further Amendment).

(3) For the purposes only of hearing and dealing with an appeal as referred to in subsection (2), the provisions of section 289 (m) of the Principal Act, as in force immediately before the commencement of section 5, relating
5 to any such appeal shall continue in force notwithstanding any other provisions of this Act.

(4) The decision of the District Court judge on any appeal referred to in subsection (2) shall have the same force and effect as it would have had if this Act had not been
10 enacted.

(5) Where an appeal had not been made before the commencement of this section but could, but for the enactment of this Act, have been made, immediately after that commencement, to a District Court judge—

- 15 (a) the appeal may be made to the Local Government Appeals Tribunal under the provisions of the Principal Act, as amended by section 5 ; and
- (b) section 289 (m) of that Act, as so amended, shall,
20 for the purposes only of so making the appeal, be deemed to be amended by omitting the words "one month" and by inserting instead the words "sixty days".

13. (1) The provisions of section 317B of the Principal Act shall continue to apply to and in respect of an order in
25 force under that section immediately before the commencement of section 6 in all respects as if the amendments made by section 6 (a) had not been made. Savings: section 6.

(2) The provisions of Division 4B of Part XI of the Principal Act shall continue to apply to and in respect of any
30 resolution in force under that Division immediately before the commencement of section 6, whether or not the resolution was adopted under that Division, in all respects as if the amendments made to that Division by section 6 had not been made.

Local Government (Further Amendment).

14. (1) In this section, "appeal" means appeal under section 20 of the Conveyancing (Strata Titles) Act, 1961.

Appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

(2) Section 11 of the Local Government (Appeals) Amendment Act, 1971, applies, and shall be deemed to have applied, to and in respect of an appeal, other than an appeal referred to in subsection (3) or (4), as if section 10 of this Act had been enacted as part of that Act.

(3) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, the Land and Valuation Court purported to give a decision in an appeal, the decision shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

(4) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, an appeal, being an appeal pending at the commencement of this section, was made to, or was commenced or continued to be heard by, the Land and Valuation Court, the making or hearing of the appeal shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

15. (1) In this section, "appeal" means appeal referred to in section 14 (4).

Pending appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

(2) An appeal shall—

(a) if the hearing of the appeal has commenced, continue to be heard and dealt with in all respects as if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted; or

(b) if the hearing of the appeal has not commenced, be deemed to be an appeal made to the Local Government Appeals Tribunal.

(3)

Local Government (Further Amendment).

5 (3) For the purposes only of continuing to hear and deal with an appeal as referred to in subsection (2) (a), the provisions of section 20 of the Conveyancing (Strata Titles) Act, 1961, and the Principal Act, as respectively in force immediately before the commencement of the Local Government (Appeals) Amendment Act, 1971, shall be deemed to have continued and to continue in force notwithstanding any provision of the Local Government (Appeals) Amendment Act, 1971, or any other provision of this Act.

10 (4) The decision of the Land and Valuation Court on any appeal referred to in subsection (2) (a) shall have the same force and effect as it would have had if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted.

15 (5) The Registrar of the Land and Valuation Court shall, as soon as practicable after the commencement of this section, forward to the Local Government Appeals Tribunal all documents held by him and relating to any appeal referred to in subsection (2) (b).

20 DIVISION 2.—*Provisions respecting county councils.*

25 16. (1) A proclamation which purported to be made under section 564 (3) of the Principal Act, as in force when the proclamation was made, and which was published before the commencement of this section, and by which any power or duty purported to be delegated to a county council, shall be deemed to have been and to be valid and effectual notwithstanding that a request for the delegation was not made, under and in accordance with section 564 (2) of that Act, by a majority of the constituent councils and
30 notwithstanding any defect in the proclamation.

Validation:
functions,
powers and
duties of
county
councils.

(2) Where, before the commencement of the Local Government (Amendment) Act, 1959—

35 (a) the boundaries of a county district were altered by adding thereto any area or part of an area, the provisions of section 564 (3A) of the Principal Act

shall

Local Government (Further Amendment).

shall be deemed to have applied to and in respect of the council of the county district, and shall be deemed to have so applied—

- 5 (i) as if those provisions had been in force at the time of the alteration of the boundaries; and
- 10 (ii) as if a reference in those provisions to the date specified in the proclamation altering the boundaries of the county district were a reference to the date specified in that proclamation or a subsequent proclamation relating to that alteration as the date from which the council of the county district purported to be substituted for the council of that area, or, where no such date was so specified, to the date on which that alteration took effect;
- 15
- 20 (b) two or more county districts were united, the provisions of section 564 (3B) of the Principal Act shall be deemed to have applied to and in respect of the council of the united county district, and shall be deemed to have so applied—
- 25 (i) as if those provisions had been in force at the time of the union;
- 30 (ii) as if those provisions had been amended by omitting the words “under this Part”; and
- (iii) as if a reference in those provisions to the date specified in the proclamation uniting the county districts were a reference to the date on which the union took effect; and
- 35 (c) the boundaries of a county district were altered by excluding therefrom the whole or part of a constituent area without at the same time adding it to another county district, the provisions of section 564 (3C) of the Principal Act shall be deemed to have applied to and in respect of the

Local Government (Further Amendment).

council of the county district and the council of the constituent area, and shall be deemed to have so applied as if those provisions had been in force at the time of the alteration of the boundaries.

5 (3) Where, after the commencement of the Local Government (Amendment) Act, 1959, and before the commencement of this section, a date was not specified in a proclamation referred to in section 564 (3A) or (3B) of the Principal Act as the date as on and from which the functions,
10 powers and duties referred to therein shall be deemed to be delegated thereunder—

(a) the proclamation shall be deemed to have been and to be valid and effectual notwithstanding that such a date was not so specified;

15 (b) the date on which the alteration of boundaries or the union of county districts, as the case may be, took effect shall be deemed to have been specified in the proclamation as the date as on and from which those functions, powers and duties shall be
20 deemed to be delegated; and

(c) section 564 (3A) or (3B) of the Principal Act, as the case may be, shall be deemed to have operated accordingly.

(4) A person is not guilty of an offence arising by
25 virtue of any act, matter or thing done or omitted to be done before the commencement of this section, being an offence of which he would not be guilty if this section had not been enacted.

(5) Nothing in subsection (2) applies to or in respect
30 of the alteration of the boundaries of the Prospect County District and the Central West County District in so far as those boundaries were altered by the proclamations referred to in section 8 (2) (b) (iii) of the Local Government (Amendment) Act, 1959.

(6)

Local Government (Further Amendment).

(6) Without affecting the generality of the operation of subsection (2), that subsection applies to and in respect of the alteration of the boundaries of the Upper Hunter County District effected by the proclamation published in Gazette No. 165 of 13th December, 1957, with respect to that county district.

17. (1) In this section—

Validation:
Manning
River
County
District.

10 “constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

“the County Council” means the Manning River County Council;

“the County District” means the Manning River County District;

15 “the relevant period” means the period commencing on 24th December, 1965, and ending on 31st December, 1971.

(2) Subject to subsection (3)—

20 (a) any act, matter or thing that was, during the relevant period—

25 (i) done by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District, and would have been lawful if done by the County Council, and would, but for this subsection, have been unlawful, is validated, and shall be deemed to have been done by the County Council; or

30 (ii) suffered by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District shall be deemed to have been suffered by the County Council; and

(b)

Local Government (Further Amendment).

- (b) without affecting the generality of paragraph (a)—
- 5 (i) all moneys and liquidated and unliquidated claims which immediately before the commencement of this section were payable to or recoverable by the constituent council in connection with the act, matter or thing shall respectively be moneys and liquidated and unliquidated claims payable to or recoverable by the County Council;
 - 10 (ii) all proceedings pending immediately before the commencement of this section at the suit of the constituent council in connection with the act, matter or thing shall be proceedings pending at the suit of the County Council; and
 - 15 (iii) all liquidated and unliquidated claims in connection with the act, matter or thing and for which the constituent council would, but for this section, have been liable shall be liquidated and unliquidated claims for which
 - 20 the County Council shall be liable.
- (3) Any rates, charges and fees purporting to be made and levied by a constituent council during the relevant period in connection with the supply of water shall be deemed
- 25 to have been—
- (a) validly made by the County Council; and
 - (b) validly levied by the constituent council in pursuance of a requirement under section 572 of the Principal Act.
- 30 (4) The transfer before the commencement of this section to the County Council of any assets belonging to or held by a constituent council as at 31st December, 1971, in connection with works of water supply or the supply of water is validated.

(5)

Local Government (Further Amendment).

(5) Any charges purporting to be made by the County Council and imposed by it on a constituent council during the relevant period in connection with works of water supply or the supply of water shall be deemed to have been
5 validly made and validly imposed, and any amount owing by the constituent council in respect of those charges at the commencement of this section shall be payable to the County Council forthwith after that commencement and recoverable by it as a debt in a court of competent jurisdiction.

10 18. (1) In this section—

“constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

Servants of Manning River County Council and constituent councils.

15 “the County Council” means the Manning River County Council;

“the transferring proclamation” means the proclamation published in Gazette No. 11 of 28th January, 1966, in respect of the County Council, under the Local Government Act, 1919, as in force on that date.

20 (2) Any person who, immediately before 1st March, 1966, was a servant of a constituent council shall be deemed to have continued on and after that day as a servant of the constituent council in all respects as if the transferring proclamation had never taken effect.

25 (3) Each constituent council shall confer with the County Council and—

30 (a) agree as to whether or not any of the persons who, at the commencement of this section, are servants of the constituent council and who, immediately before that commencement, were, whether wholly, principally or partly, employed in or in connection with works of water supply or the supply of water should be transferred to the service of the County Council; and

(b)

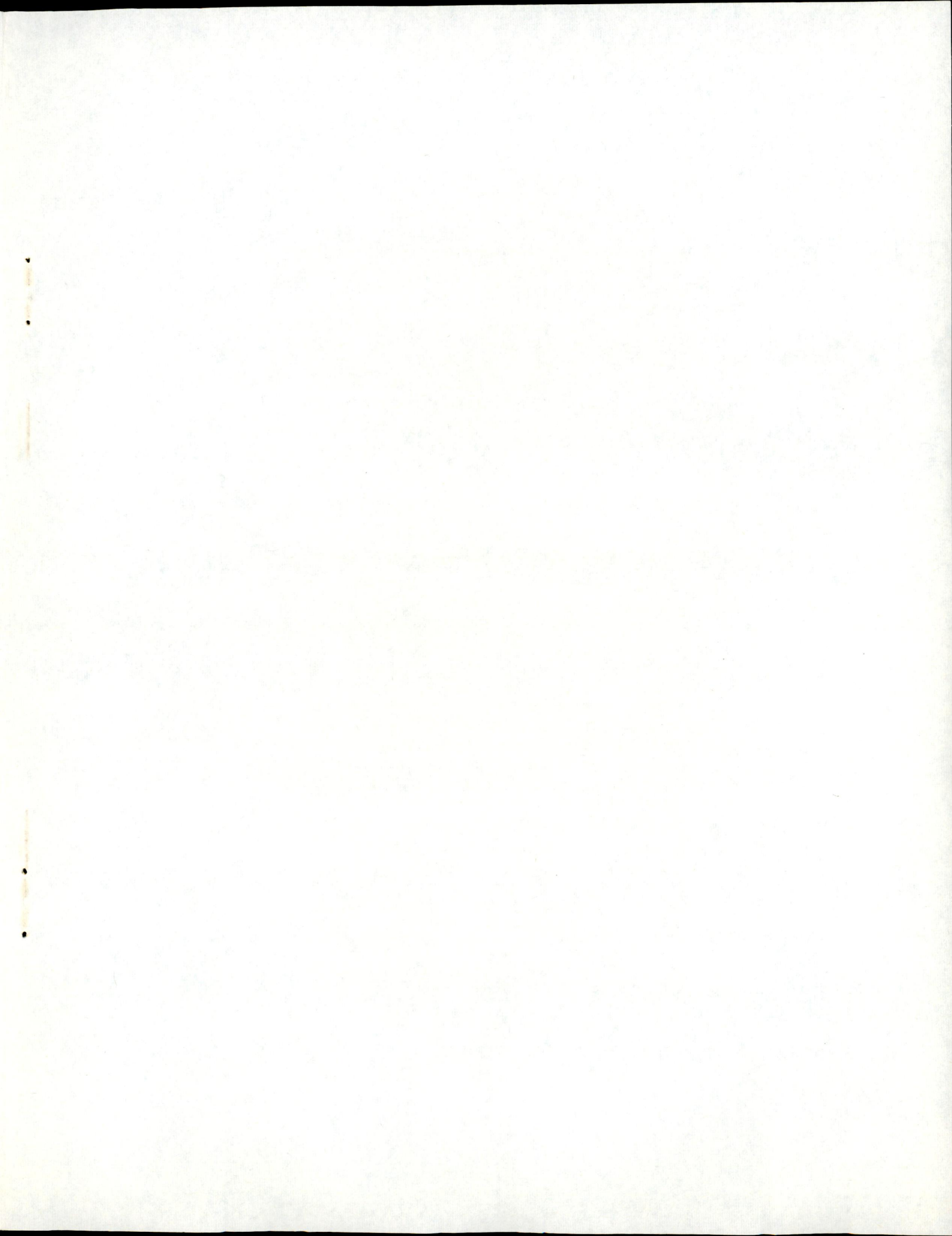
Local Government (Further Amendment).

- (b) if they agree that any persons should be so transferred, shall agree upon an arrangement as to which of those persons so employed should be so transferred.
- 5 (4) In the event of any failure to agree under subsection (3) within one month after the commencement of this section or within such further period as the Minister may allow, the Minister may determine the question and, where appropriate, make an arrangement as to which persons should
10 be transferred to the service of the County Council.
- (5) An arrangement under this section shall be embodied in a proclamation.
- (6) On the date specified in that behalf in the proclamation embodying an arrangement under this section—
15 (a) each of the persons included in the arrangement shall be transferred to the service of the County Council from the service of the constituent council to which the arrangement relates; and
20 (b) the provisions of section 564B (1) (m) of the Principal Act shall apply to and in respect of each of those persons, the County Council and the constituent council as if the transfer had been effected by the operation of section 564B (1) (m)
25 (i) (a) thereof and as if a reference in section 564B (1) (m) thereof to the date of delegation were a reference to the date so specified in the proclamation.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

[20c]



LOCAL GOVERNMENT (FURTHER AMENDMENT) BILL, 1972

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to provide for an appeal to the Local Government Appeals Tribunal against a council's decision requiring the fencing, emptying, filling in or covering up of a dangerous waterhole;
- (b) to clarify the powers of a council to recover its expenses in repairing, demolishing or carrying out work on an unsightly building or an unauthorised building or alteration;
- (c) to repeal section 317BA of the Principal Act (respecting the demolition of residential buildings) which has expired;
- (d) to clarify the power of a council to direct the carrying out of works or the provision of equipment in or in connection with a building as a fire prevention or fire fighting measure;
- (e) to extend the power to make ordinances under the Principal Act with respect to the regulation of building;
- (f) to provide for an appeal to the Local Government Appeals Tribunal against a council's decision relating to advertising;
- (g) to provide that powers and duties in relation to works for the supply of electricity, the supply of electricity and the installation of electrical fittings and appliances may be delegated to a county council without the consent of a majority of the constituent councils;
- (h) to prescribe the manner of counting sitting days of a House of Parliament for the purpose of tabling ordinances under the Principal Act;
- (i) to amend the Conveyancing (Strata Titles) Act, 1961, to provide for an appeal to the Local Government Appeals Tribunal from a council's decision with respect to certain subdivision approvals;
- (j) to validate the purported delegation to a county council of certain functions, powers and duties;
- (k) to validate the acts, matters and things done before 1st January, 1972, by the constituent councils of the Manning River County District in relation to the supply of water, including the rates, charges and fees levied by the constituent councils;
- (l) to validate certain charges imposed on constituent councils by the Manning River County Council;
- (m) to provide—
 - (i) that the provisions of section 564B of the Principal Act which took effect in respect of the Manning River County Council by virtue of a proclamation published on 28th January, 1966, did not operate to transfer any persons to the service of the County Council; and
 - (ii) for such a transfer after the date of assent to the proposed Act by arrangement between the County Council and the constituent councils;
- (n) to make other provisions of a minor, consequential or ancillary nature.

1900

LOCAL GOVERNMENT (FURTHER AMENDMENT) BILL 1914

EXPLANATORY STATEMENT

The Local Government (Further Amendment) Bill, 1914, is intended to amend the Local Government Act, 1902, and the Local Government Act, 1905, in relation to the powers and duties of local authorities, and to provide for the better administration of the law relating to local government.

The Bill is divided into three parts, and contains the following provisions:

Part I.—Powers and Duties of Local Authorities.

Part II.—Administration of the Law.

Part III.—Miscellaneous Provisions.

The Bill is intended to be read with the Local Government Act, 1902, and the Local Government Act, 1905.

PROOF

No. , 1972.

A BILL

To make further provision with respect to the powers, authorities, duties and functions of councils and county councils; to confer a right of appeal on certain persons to the Local Government Appeals Tribunal; for these and other purposes to amend the Local Government Act, 1919, and the Conveyancing (Strata Titles) Act, 1961; to make provision relating to the transfer of persons to the service of the Manning River County Council; to validate certain matters; and for purposes connected therewith.

[MR CUTLER—21 September, 1972.]

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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Local Government Short title.
(Further Amendment) Act, 1972".

10 2. (1) This Act (sections 5, 6, 7, 10, 11, 12 and 13 Commence-
excepted) shall commence on the date of assent to this Act. ment.

(2) Sections 5, 6, 7 and 11 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in
15 the Gazette.

(3) Section 10 shall be deemed to have commenced on 1st September, 1972.

(4) Section 12 shall commence on the date of commencement of section 5.

20 (5) Section 13 shall commence on the date of commencement of section 6.

3. The Local Government Act, 1919, is in this Act Construc-
referred to as the Principal Act. tion.

4.

Local Government (Further Amendment).

4. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—ss. 1-4.

PART II.—AMENDMENTS OF ACTS—ss. 5-11.

PART III.—SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS—ss. 12-18.

5

DIVISION 1.—*Provisions respecting Part II*—ss. 12-15.

DIVISION 2.—*Provisions respecting county councils*—ss. 16-18.

PART II.

10

AMENDMENTS OF ACTS.

5. Part X of the Principal Act is amended by omitting from section 289 (m) the following words :—

Amendment
of Act No.
41, 1919.

15

Any owner who has been served with a notice under this paragraph may within the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

(Part X.—
Public
Health,
Safety, and
Con-
venience.)
Sec. 289.

20

Such judge may determine whether the direction of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications, and may extend the time within which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

(Various
powers of
the council.)

25

If costs are awarded they may be recovered in like manner to costs awarded in a judgment of the district court.

The

Local Government (Further Amendment).

The decision of such judge 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.

5 and by inserting instead the following words :—

Any owner who has been served with a notice under this paragraph may, within one month after service of the notice upon him, appeal to the Tribunal against the direction given in the notice.

10 Where an appeal is made under this paragraph against a direction, a reference in Part XII B to a decision of a council, howsoever expressed, includes a reference to that direction.

6. Part XI of the Principal Act is amended—

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

15 (a) by omitting section 317B (4) and by inserting instead the following subsections :—

Sec. 317B. (Repair or demolition of existing buildings.)

(4) Where there is a sale under subsection (3), the council—

20 (a) if the proceeds of the sale exceed the expenses incurred by the council in relation to the execution of the order and the sale—

(i) may deduct out of the proceeds an amount equal to those expenses; and

25 (ii) shall pay the surplus on demand to the owner; or

(b) if the proceeds of the sale do not exceed those expenses—

(i) may retain the proceeds; and

(ii)

Local Government (Further Amendment).

(ii) may recover the deficiency, if any, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

5 (4A) Where—

(a) the council demolishes the building or any part thereof but does not sell the materials under subsection (3); or

10 (b) the execution of the order does not involve any such demolition,

the council may recover all expenses incurred by it in relation to the execution of the order, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

15 (4B) Nothing in subsection (4) or (4A) affects the owner's right to recover any amount from any lessee or other person liable for the expenses of repairs.

20 (4C) A reference in subsection (4) or (4A) to costs is a reference to costs incurred by the council in seeking to recover the deficiency or expenses otherwise than by proceedings in a court, but nothing in this section prevents the council from receiving costs as between party and party in respect of those proceedings.

25 (b) by omitting section 317BA;

Sec. 317BA.
(Demolition
of
residential
buildings.)

(c) by omitting from the heading to Division 4B the word "escapes" and by inserting instead the word "precautions";

(d)

Local Government (Further Amendment).

(d) (i) by omitting section 317D (1) and by inserting instead the following subsections :—

Sec. 317D.
(Fire escapes, fire-fighting equipment, etc.)

5 (1) The council, for the purpose of ensuring that adequate provision is made in or in connection with a building for all or any of the following matters, namely—

- (a) the safety of persons in the building in the event of fire ;
- (b) the prevention of fire ;
- 10 (c) the suppression of fire ; and
- (d) the prevention of the spread of fire,

may, by resolution—

- 15 (e) direct that such works (whether in the nature of alterations or otherwise) as may be specified in the resolution be carried out; or
- (f) direct that such fire-fighting equipment as may be so specified be provided,

or give both such directions.

20 (1A) Without affecting the generality of subsection (1), the council may, under subsection (1) (e), direct that any or all of the following works be carried out in or in connection with the building, namely—

- 25 (a) that means of escape or egress be provided ;
- (b) that automatic sprinklers or drenchers be installed ; and
- 30 (c) that provision be made for the protection from fire of means of escape or egress.

(ii)

Local Government (Further Amendment).

- (ii) by omitting from section 317D (2) the words "automatic sprinklers or drenchers" and by inserting instead the words "equipment or any part thereof";
- 5 (e) (i) by omitting from section 317E (a) the words "on a date mentioned in the notice (being not less than one month after the service thereof)"; Sec. 317E. (Notice to owners and others.)
- 10 (ii) by inserting in section 317E (a) after the word "may" the words ", within one month after the service thereof,";
- 15 (iii) by omitting from section 317E (c) the words "at a time to be specified in the notice (not being less than three months after the date of service of the notice)" and by inserting instead the words "before the expiration of such period (being not less than two months) next following the date of adoption as may be specified in the notice,";
- 20 (iv) by inserting in section 317E (c) after the words "completed within such" the word "further";
- 25 (v) by omitting section 317E (d) and by inserting instead the following paragraph :—
 - (d) that equipment to be provided in accordance with the resolution, if adopted, shall be provided before the expiration of such period next following the adoption of the resolution as may be specified in the notice;
- 30 (vi) by omitting from section 317E (e) the words "as from a date to be specified in the notice (not being less than one month after the date of service of the notice)" and by inserting instead the words "upon the expiration of such period next following the date of adoption as may be specified in the notice";
- 35

(d)

(f)

Local Government (Further Amendment).

- (f) by omitting section 317F and by inserting instead the following section :— Subst. sec. 317F.

5 317F. The owner of the building and any person who may be affected by a resolution of the council referred to in section 317D (whether that person has been served with a notice or not) may, by himself or by any person on his behalf, object to the Tribunal against the resolution— Making of objection.

10 (a) where a notice was served on him—within one month after the service thereof; or

 (b) where a notice was not served on him—during the period when any other person upon whom a notice was served in relation to the resolution may so object.

15 (g) by omitting from section 317G the words “Upon the date mentioned in the notice or on any date to which the consideration of the matter may be adjourned, the” and by inserting instead the word “The”; Sec. 317G. (Proce- dure.)

20 (h) (i) by omitting from section 317H the words “specified in the notice”; Sec. 317H. (Extension of time.)

 (ii) by inserting in section 317H after the word “relates” the words “or may, if the resolution contains any direction referred to in subsection (2) of section 317D, extend the period upon the expiration of which the direction shall become operative”;

25 (i) by inserting at the end of section 317J the following new subsections :— Sec. 317J. (Comple- tion of work.)

30 (5) Any person who fails to comply with a direction referred to in subsection (1) shall be guilty of an offence under this Act.

 Penalty : Five hundred dollars and, for each day the offence continues, a further fifty dollars.

(6)

Local Government (Further Amendment).

(6) In the event of a failure to comply with a direction referred to in subsection (1)—

- 5 (a) proceedings may be instituted for an offence arising under subsection (5) notwithstanding that the council is exercising or has exercised all or any of its powers under subsections (2), (3) and (4) in relation to the failure; or
- 10 (b) the council may exercise all or any of those powers in relation to the failure notwithstanding that proceedings have been instituted for such an offence.

15 (7) Section 632 does not apply to a failure to comply with a direction referred to in subsection (1).

- (j) (i) by omitting from section 319 (1) the following paragraph :—
- (d) generally for carrying into effect the purposes of the ordinance.

Sec. 319.
(Additional provisions re ordinances.)

20 and by inserting instead the following paragraphs :—

- 25 (e) for the classification of buildings or portions of buildings according to the purpose or purposes for which they are intended or apparently intended to be used or by reference to any other matters;
- (f) for the issue by the council of certificates of classification of buildings and for the revocation or amendment of any such certificates;
- 30 (g) for the conditions under which buildings or portions of buildings of one

classification

Local Government (Further Amendment).

classification may be adapted for use as buildings or portions of buildings of another classification ;

- 5 (h) for the establishment of fire zones in an area ;
- (i) for the application of special provisions in respect of the erection of buildings in a fire zone ;
- 10 (j) for enabling or requiring the submission to the council of certificates of or reports by competent persons or bodies in respect of aspects of building design, or the use in or in connection with buildings of particular materials or combinations of materials, or forms or methods of construction of buildings ;
- 15 (k) generally for carrying into effect the purposes of the ordinance.
- 20 (ii) by omitting section 319 (2) and by inserting instead the following subsection :—
- (2) Any such ordinance may adopt wholly or partially or by reference any of the standard rules or specifications which relate to any matter with which the ordinance deals and which are—
- 25 (a) recommended or adopted by the Standards Association of Australia ;
- (b) recommended or adopted by—
- 30 (i) the American Society for Testing Materials, the British Standards Institution or the International Organization for Standardization ; or

(ii)

Local Government (Further Amendment).

- 5 (ii) any other standards organisation or body of any place outside Australia, being an organisation or body declared by the Minister by order published in the Gazette to be an approved standards organisation or body for the purposes of this subsection;
- 10 (c) included in any document issued by any Department of the Crown in right of this or any other State or the Commonwealth or issued by any instrumentality of this or any other State or the Commonwealth constituted by an Act of the Parliament thereof; or
- 15 (d) approved by the Minister and published in the Gazette.

20 7. Part XXIII of the Principal Act is amended by inserting Further amendment of Act No. 41, 1919.

(3) A person who is aggrieved by any decision of the council (whether the decision relates to a direction given by the council or otherwise) in the exercise or performance of its powers, authorities, duties or functions under subsection (1), or under any ordinance relating thereto, may appeal to the Tribunal against the decision of the council. (Part XXIII.—Miscellaneous Powers.) Sec. 510. (Advertisements.)

30 (4) Where the council gives a written notice to a person of any decision from which an appeal lies under subsection (3), the notice shall indicate that he has a right of appeal under this Act.

Local Government (Further Amendment).

8. Part XXIX of the Principal Act is amended by inserting in section 564 (3) after the words "noxious plants" the words ", or to the construction, extension, protection, maintenance, control and management of works for the supply of electricity, the supply of electricity and the supply and installing of electrical fittings and appliances".
- Further amendment of Act No. 41, 1919. (Part XXIX.—County Councils.) Sec. 564. (Powers.)
9. Part XXX of the Principal Act is amended—
- (a) by omitting section 577 (1) (c) and by inserting instead the following paragraph :—
- (c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.
- (b) by omitting section 577 (2) and by inserting instead the following subsections :—
- (2) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after an ordinance has been laid before it, disallowing the ordinance or any part thereof, the ordinance or part thereupon ceases to have effect.
- (2A) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session.
- Further amendment of Act No. 41, 1919. (Part XXX.—Supplementary.) Sec. 577. (Publication and commencement.)
10. The Conveyancing (Strata Titles) Act, 1961, is amended—
- (a) by omitting from section 20 (3) the words "Land and Valuation Court in accordance with the provisions of section 342N of the Local Government Act, 1919, as amended by subsequent Acts, and
- Amendment of Act No. 17, 1961. Sec. 20. (Approval of sub-division.)

the

Local Government (Further Amendment).

5 the provisions of that section shall extend mutatis mutandis to and in respect of such appeal” and by inserting instead the words “Local Government Appeals Tribunal constituted under Part XII B of the Local Government Act, 1919”;

(b) by omitting from section 20 (5) the words “Land and Valuation Court” and by inserting instead the words “Tribunal referred to in subsection (3)”.

10 **11.** The Conveyancing (Strata Titles) Act, 1961, is further amended by inserting next after section 20 (2) the following new subsections :—

15 (2A) The local council to which an application for the issue of the certificate referred to in subsection (2) is made shall cause notice of its decision on the application to be given to the applicant.

20 (2B) Where the local council refuses to grant an application for the issue of the certificate referred to in subsection (2), the reasons for the local council’s decision shall be indicated in the notice given under subsection (2A), which shall also indicate that the applicant has a right of appeal under this section against the decision of the local council.

PART III.

SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS.

25 **DIVISION 1.—Provisions respecting Part II.**

12. (1) In this section, “appeal” means appeal under section 289 (m) of the Principal Act.

(2) An appeal made before the commencement of this section shall, whether or not the hearing of the appeal has commenced, be heard and dealt with in all respects as if this Act had not been enacted.

(3)

Local Government (Further Amendment).

(3) For the purposes only of hearing and dealing with an appeal as referred to in subsection (2), the provisions of section 289 (m) of the Principal Act, as in force immediately before the commencement of section 5, relating
5 to any such appeal shall continue in force notwithstanding any other provisions of this Act.

(4) The decision of the District Court judge on any appeal referred to in subsection (2) shall have the same force and effect as it would have had if this Act had not been
10 enacted.

(5) Where an appeal had not been made before the commencement of this section but could, but for the enactment of this Act, have been made, immediately after that commencement, to a District Court judge—

- 15 (a) the appeal may be made to the Local Government Appeals Tribunal under the provisions of the Principal Act, as amended by section 5; and
- (b) section 289 (m) of that Act, as so amended, shall, for the purposes only of so making the appeal, be
20 deemed to be amended by omitting the words “one month” and by inserting instead the words “sixty days”.

13. (1) The provisions of section 317B of the Principal Act shall continue to apply to and in respect of an order in
25 force under that section immediately before the commencement of section 6 in all respects as if the amendments made by section 6 (a) had not been made. Savings: section 6.

(2) The provisions of Division 4B of Part XI of the Principal Act shall continue to apply to and in respect of any
30 resolution in force under that Division immediately before the commencement of section 6, whether or not the resolution was adopted under that Division, in all respects as if the amendments made to that Division by section 6 had not been made.

Local Government (Further Amendment).

14. (1) In this section, "appeal" means appeal under section 20 of the Conveyancing (Strata Titles) Act, 1961.

Appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

5 (2) Section 11 of the Local Government (Appeals) Amendment Act, 1971, applies, and shall be deemed to have applied, to and in respect of an appeal, other than an appeal referred to in subsection (3) or (4), as if section 10 of this Act had been enacted as part of that Act.

10 (3) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, the Land and Valuation Court purported to give a decision in an appeal, the decision shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

15 (4) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, an appeal, being an appeal pending at the commencement of this section, was made to, or was commenced or continued to be heard by, the Land and Valuation Court, the making or hearing of the appeal shall be, 20 and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

15. (1) In this section, "appeal" means appeal referred to in section 14 (4).

Pending appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

(2) An appeal shall—

25 (a) if the hearing of the appeal has commenced, continue to be heard and dealt with in all respects as if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted; or

30 (b) if the hearing of the appeal has not commenced, be deemed to be an appeal made to the Local Government Appeals Tribunal.

(3)

Local Government (Further Amendment).

5 (3) For the purposes only of continuing to hear and deal with an appeal as referred to in subsection (2) (a), the provisions of section 20 of the Conveyancing (Strata Titles) Act, 1961, and the Principal Act, as respectively in force immediately before the commencement of the Local Government (Appeals) Amendment Act, 1971, shall be deemed to have continued and to continue in force notwithstanding any provision of the Local Government (Appeals) Amendment Act, 1971, or any other provision of this Act.

10 (4) The decision of the Land and Valuation Court on any appeal referred to in subsection (2) (a) shall have the same force and effect as it would have had if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted.

15 (5) The Registrar of the Land and Valuation Court shall, as soon as practicable after the commencement of this section, forward to the Local Government Appeals Tribunal all documents held by him and relating to any appeal referred to in subsection (2) (b).

20 DIVISION 2.—*Provisions respecting county councils.*

25 16. (1) A proclamation which purported to be made under section 564 (3) of the Principal Act, as in force when the proclamation was made, and which was published before the commencement of this section, and by which any power or duty purported to be delegated to a county council, shall be deemed to have been and to be valid and effectual notwithstanding that a request for the delegation was not made, under and in accordance with section 564 (2) of that Act, by a majority of the constituent councils and
30 notwithstanding any defect in the proclamation.

Validation:
functions,
powers and
duties of
county
councils.

(2) Where, before the commencement of the Local Government (Amendment) Act, 1959—

35 (a) the boundaries of a county district were altered by adding thereto any area or part of an area, the provisions of section 564 (3A) of the Principal Act

shall

Local Government (Further Amendment).

shall be deemed to have applied to and in respect of the council of the county district, and shall be deemed to have so applied—

- 5 (i) as if those provisions had been in force at the time of the alteration of the boundaries; and
- 10 (ii) as if a reference in those provisions to the date specified in the proclamation altering the boundaries of the county district were a reference to the date specified in that proclamation or a subsequent proclamation relating to that alteration as the date from which the council of the county district purported to be substituted for the council of that area, or, where no such date was so specified, to the date on which that alteration took effect;
- 15
- 20 (b) two or more county districts were united, the provisions of section 564 (3B) of the Principal Act shall be deemed to have applied to and in respect of the council of the united county district, and shall be deemed to have so applied—
- 25 (i) as if those provisions had been in force at the time of the union;
- 30 (ii) as if those provisions had been amended by omitting the words “under this Part”; and
- (iii) as if a reference in those provisions to the date specified in the proclamation uniting the county districts were a reference to the date on which the union took effect; and
- 35 (c) the boundaries of a county district were altered by excluding therefrom the whole or part of a constituent area without at the same time adding it to another county district, the provisions of section 564 (3C) of the Principal Act shall be deemed to have applied to and in respect of the

Local Government (Further Amendment).

council of the county district and the council of the constituent area, and shall be deemed to have so applied as if those provisions had been in force at the time of the alteration of the boundaries.

5 (3) Where, after the commencement of the Local Government (Amendment) Act, 1959, and before the commencement of this section, a date was not specified in a proclamation referred to in section 564 (3A) or (3B) of the Principal Act as the date as on and from which the functions,
10 powers and duties referred to therein shall be deemed to be delegated thereunder—

- (a) the proclamation shall be deemed to have been and to be valid and effectual notwithstanding that such a date was not so specified;
- 15 (b) the date on which the alteration of boundaries or the union of county districts, as the case may be, took effect shall be deemed to have been specified in the proclamation as the date as on and from which those functions, powers and duties shall be
20 deemed to be delegated; and
- (c) section 564 (3A) or (3B) of the Principal Act, as the case may be, shall be deemed to have operated accordingly.

25 (4) A person is not guilty of an offence arising by virtue of any act, matter or thing done or omitted to be done before the commencement of this section, being an offence of which he would not be guilty if this section had not been enacted.

30 (5) Nothing in subsection (2) applies to or in respect of the alteration of the boundaries of the Prospect County District and the Central West County District in so far as those boundaries were altered by the proclamations referred to in section 8 (2) (b) (iii) of the Local Government (Amendment) Act, 1959.

Local Government (Further Amendment).

(6) Without affecting the generality of the operation of subsection (2), that subsection applies to and in respect of the alteration of the boundaries of the Upper Hunter County District effected by the proclamation published in Gazette
5 No. 165 of 13th December, 1957, with respect to that county district.

17. (1) In this section—

“constituent councils” means the Councils of the
10 Municipalities of Taree and Wingham and of the
Shire of Manning;

Validation:
Manning
River
County
District.

“the County Council” means the Manning River County Council;

“the County District” means the Manning River County District;

15 “the relevant period” means the period commencing on 24th December, 1965, and ending on 31st December, 1971.

(2) Subject to subsection (3)—

20 (a) any act, matter or thing that was, during the relevant period—

25 (i) done by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District, and would have been lawful if done by the County Council, and would, but for this subsection, have been unlawful, is validated, and shall be deemed to have been done by the County Council; or

30 (ii) suffered by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District shall be deemed to have been suffered by the County Council; and

(b)

Local Government (Further Amendment).

(b) without affecting the generality of paragraph (a)—

- 5 (i) all moneys and liquidated and unliquidated claims which immediately before the commencement of this section were payable to or recoverable by the constituent council in connection with the act, matter or thing shall respectively be moneys and liquidated and unliquidated claims payable to or recoverable by the County Council;
- 10 (ii) all proceedings pending immediately before the commencement of this section at the suit of the constituent council in connection with the act, matter or thing shall be proceedings pending at the suit of the County Council;
- 15 and
- 20 (iii) all liquidated and unliquidated claims in connection with the act, matter or thing and for which the constituent council would, but for this section, have been liable shall be liquidated and unliquidated claims for which the County Council shall be liable.

(3) Any rates, charges and fees purporting to be made and levied by a constituent council during the relevant period in connection with the supply of water shall be deemed 25 to have been—

- (a) validly made by the County Council; and
- (b) validly levied by the constituent council in pursuance of a requirement under section 572 of the Principal Act.

30 (4) The transfer before the commencement of this section to the County Council of any assets belonging to or held by a constituent council as at 31st December, 1971, in connection with works of water supply or the supply of water is validated.

(5)

Local Government (Further Amendment).

(5) Any charges purporting to be made by the County Council and imposed by it on a constituent council during the relevant period in connection with works of water supply or the supply of water shall be deemed to have been
5 validly made and validly imposed, and any amount owing by the constituent council in respect of those charges at the commencement of this section shall be payable to the County Council forthwith after that commencement and recoverable by it as a debt in a court of competent jurisdiction.

10 18. (1) In this section—

“constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

Servants of Manning River County Council and constituent councils.

15 “the County Council” means the Manning River County Council;

“the transferring proclamation” means the proclamation published in Gazette No. 11 of 28th January, 1966, in respect of the County Council, under the Local Government Act, 1919, as in force on that date.

20 (2) Any person who, immediately before 1st March, 1966, was a servant of a constituent council shall be deemed to have continued on and after that day as a servant of the constituent council in all respects as if the transferring proclamation had never taken effect.

25 (3) Each constituent council shall confer with the County Council and—

30 (a) agree as to whether or not any of the persons who, at the commencement of this section, are servants of the constituent council and who, immediately before that commencement, were, whether wholly, principally or partly, employed in or in connection with works of water supply or the supply of water should be transferred to the service of the County Council; and

(b)

Local Government (Further Amendment).

(b) if they agree that any persons should be so transferred, shall agree upon an arrangement as to which of those persons so employed should be so transferred.

5 (4) In the event of any failure to agree under subsection (3) within one month after the commencement of this section or within such further period as the Minister may allow, the Minister may determine the question and, where appropriate, make an arrangement as to which persons should
10 be transferred to the service of the County Council.

(5) An arrangement under this section shall be embodied in a proclamation.

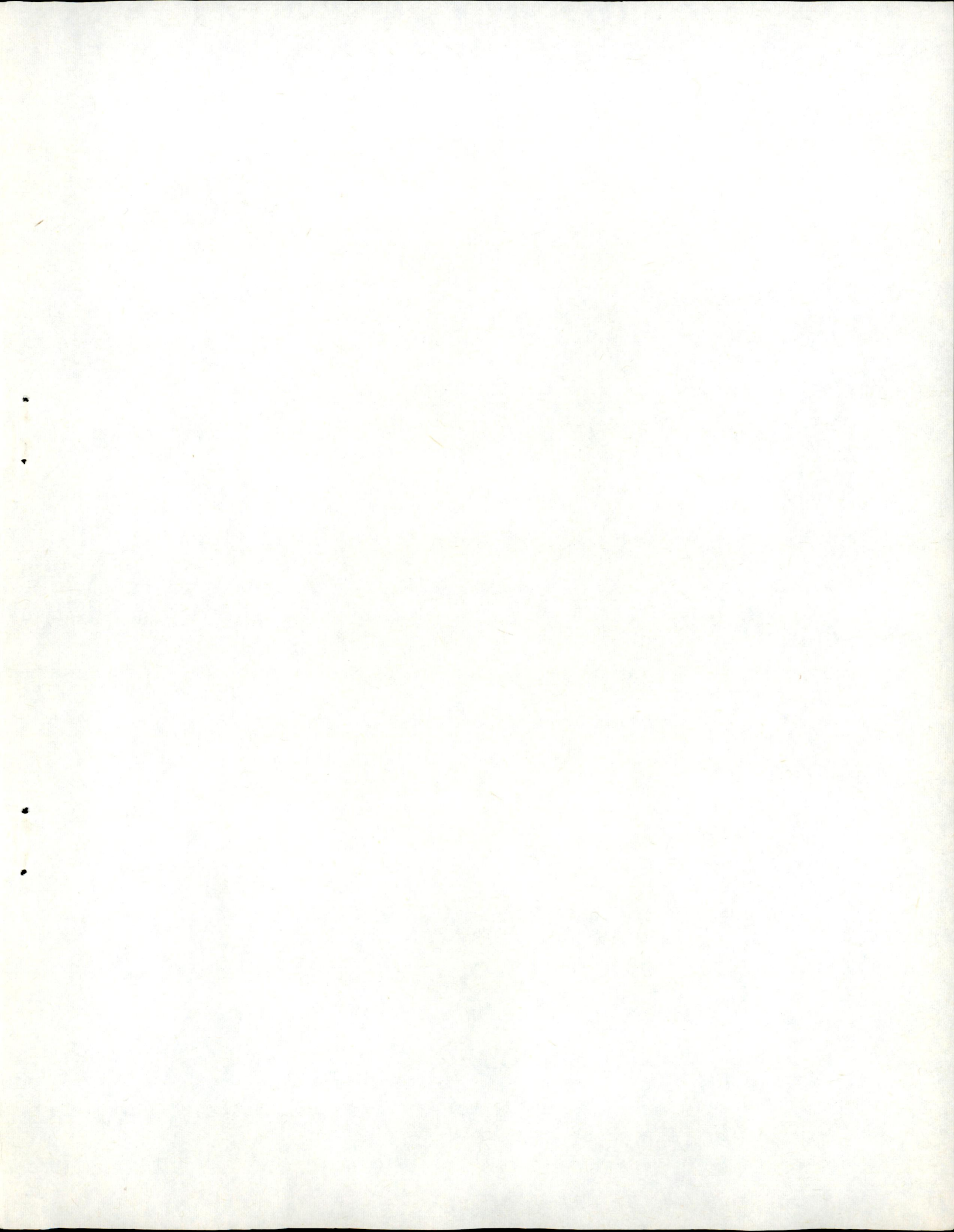
(6) On the date specified in that behalf in the proclamation embodying an arrangement under this section—

15 (a) each of the persons included in the arrangement shall be transferred to the service of the County Council from the service of the constituent council to which the arrangement relates; and

20 (b) the provisions of section 564B (1) (m) of the Principal Act shall apply to and in respect of each of those persons, the County Council and the constituent council as if the transfer had been effected by the operation of section 564B (1) (m) (i) (a) thereof and as if a reference in section
25 564B (1) (m) thereof to the date of delegation were a reference to the date so specified in the proclamation.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972



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, 15 November, 1972.*

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 64, 1972.

An Act to make further provision with respect to the powers, authorities, duties and functions of councils and county councils; to confer a right of appeal on certain persons to the Local Government Appeals Tribunal; for these and other purposes to amend the Local Government Act, 1919, and the Conveyancing (Strata Titles) Act, 1961; to make provision relating to the transfer of persons to the service of the Manning River County Council; to validate certain matters; and for purposes connected therewith. [Assented to, 28th November, 1972.]

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 :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Local Government (Further Amendment) Act, 1972".

Commence-
ment. **2.** (1) This Act (sections 5, 6, 7, 10, 11, 12 and 13 excepted) shall commence on the date of assent to this Act.

(2) Sections 5, 6, 7 and 11 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 10 shall be deemed to have commenced on 1st September, 1972.

(4) Section 12 shall commence on the date of commencement of section 5.

(5) Section 13 shall commence on the date of commencement of section 6.

Construc-
tion. **3.** The Local Government Act, 1919, is in this Act referred to as the Principal Act.

4.

Local Government (Further Amendment).

4. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—AMENDMENTS OF ACTS—*ss.* 5–11.

PART III.—SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS—*ss.* 12–18.

DIVISION 1.—*Provisions respecting Part II—ss.* 12–15.

DIVISION 2.—*Provisions respecting county councils—ss.* 16–18.

PART II.

AMENDMENTS OF ACTS.

5. Part X of the Principal Act is amended by omitting from section 289 (m) the following words :—

Amendment
of Act No.
41, 1919.

Any owner who has been served with a notice under this paragraph may within the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the direction given in the notice.

(Part X.—
Public
Health,
Safety, and
Con-
venience.)
Sec. 289.

Such judge may determine whether the direction of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications, and may extend the time within which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

(Various
powers of
the council.)

If costs are awarded they may be recovered in like manner to costs awarded in a judgment of the district court.

The

Local Government (Further Amendment).

The decision of such judge 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.

and by inserting instead the following words :—

Any owner who has been served with a notice under this paragraph may, within one month after service of the notice upon him, appeal to the Tribunal against the direction given in the notice.

Where an appeal is made under this paragraph against a direction, a reference in Part XII B to a decision of a council, howsoever expressed, includes a reference to that direction.

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

6. Part XI of the Principal Act is amended—

Sec. 317B.
(Repair or
demolition
of existing
buildings.)

(a) by omitting section 317B (4) and by inserting instead the following subsections :—

(4) Where there is a sale under subsection (3), the council—

(a) if the proceeds of the sale exceed the expenses incurred by the council in relation to the execution of the order and the sale—

- (i) may deduct out of the proceeds an amount equal to those expenses; and
- (ii) shall pay the surplus on demand to the owner; or

(b) if the proceeds of the sale do not exceed those expenses—

- (i) may retain the proceeds; and

(ii)

Local Government (Further Amendment).

(ii) may recover the deficiency, if any, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

(4A) Where—

- (a) the council demolishes the building or any part thereof but does not sell the materials under subsection (3); or
- (b) the execution of the order does not involve any such demolition,

the council may recover all expenses incurred by it in relation to the execution of the order, together with all costs in respect thereof, from the owner as a debt in any court of competent jurisdiction.

(4B) Nothing in subsection (4) or (4A) affects the owner's right to recover any amount from any lessee or other person liable for the expenses of repairs.

(4C) A reference in subsection (4) or (4A) to costs is a reference to costs incurred by the council in seeking to recover the deficiency or expenses otherwise than by proceedings in a court, but nothing in this section prevents the council from receiving costs as between party and party in respect of those proceedings.

(b) by omitting section 317BA;

Sec. 317BA.
(Demolition
of
residential
buildings.)

(c) by omitting from the heading to Division 4B the word "escapes" and by inserting instead the word "precautions";

(d)

Local Government (Further Amendment).

Sec. 317D.
(Fire
escapes,
fire-fighting
equipment
etc.)

(d) (i) by omitting section 317D (1) and by inserting instead the following subsections :—

(1) The council, for the purpose of ensuring that adequate provision is made in or in connection with a building for all or any of the following matters, namely—

- (a) the safety of persons in the building in the event of fire;
- (b) the prevention of fire;
- (c) the suppression of fire; and
- (d) the prevention of the spread of fire,

may, by resolution—

- (e) direct that such works (whether in the nature of alterations or otherwise) as may be specified in the resolution be carried out; or
- (f) direct that such fire-fighting equipment as may be so specified be provided,

or give both such directions.

(1A) Without affecting the generality of subsection (1), the council may, under subsection (1) (e), direct that any or all of the following works be carried out in or in connection with the building, namely—

- (a) that means of escape or egress be provided;
- (b) that automatic sprinklers or drenchers be installed; and
- (c) that provision be made for the protection from fire of means of escape or egress.

(ii)

Local Government (Further Amendment).

- (ii) by omitting from section 317D (2) the words “automatic sprinklers or drenchers” and by inserting instead the words “equipment or any part thereof”;
- (e) (i) by omitting from section 317E (a) the words “on a date mentioned in the notice (being not less than one month after the service thereof)”;
Sec. 317E.
(Notice to
owners and
others.)
 - (ii) by inserting in section 317E (a) after the word “may” the words “, within one month after the service thereof,”;
 - (iii) by omitting from section 317E (c) the words “at a time to be specified in the notice (not being less than three months after the date of service of the notice)” and by inserting instead the words “before the expiration of such period (being not less than two months) next following the date of adoption as may be specified in the notice,”;
 - (iv) by inserting in section 317E (c) after the words “completed within such” the word “further”;
 - (v) by omitting section 317E (d) and by inserting instead the following paragraph :—
 - (d) that equipment to be provided in accordance with the resolution, if adopted, shall be provided before the expiration of such period next following the adoption of the resolution as may be specified in the notice;
 - (vi) by omitting from section 317E (e) the words “as from a date to be specified in the notice (not being less than one month after the date of service of the notice)” and by inserting instead the words “upon the expiration of such period next following the date of adoption as may be specified in the notice”;

(f)

Local Government (Further Amendment).

Subst. sec.
317F.

- (f) by omitting section 317F and by inserting instead the following section :—

Making of
objection.

317F. The owner of the building and any person who may be affected by a resolution of the council referred to in section 317D (whether that person has been served with a notice or not) may, by himself or by any person on his behalf, object to the Tribunal against the resolution—

- (a) where a notice was served on him—within one month after the service thereof; or
- (b) where a notice was not served on him—during the period when any other person upon whom a notice was served in relation to the resolution may so object.

Sec. 317G.
(Proce-
dure.)

- (g) by omitting from section 317G the words “Upon the date mentioned in the notice or on any date to which the consideration of the matter may be adjourned, the” and by inserting instead the word “The”;

Sec. 317H.
(Extension
of time.)

- (h) (i) by omitting from section 317H the words “specified in the notice”;
- (ii) by inserting in section 317H after the word “relates” the words “or may, if the resolution contains any direction referred to in subsection (2) of section 317D, extend the period upon the expiration of which the direction shall become operative”;

Sec. 317J.
(Comple-
tion of
work.)

- (i) by inserting at the end of section 317J the following new subsections :—

(5) Any person who fails to comply with a direction referred to in subsection (1) shall be guilty of an offence under this Act.

Penalty: Five hundred dollars and, for each day the offence continues, a further fifty dollars.

(6)

Local Government (Further Amendment).

(6) In the event of a failure to comply with a direction referred to in subsection (1)—

- (a) proceedings may be instituted for an offence arising under subsection (5) notwithstanding that the council is exercising or has exercised all or any of its powers under subsections (2), (3) and (4) in relation to the failure; or
- (b) the council may exercise all or any of those powers in relation to the failure notwithstanding that proceedings have been instituted for such an offence.

(7) Section 632 does not apply to a failure to comply with a direction referred to in subsection (1).

(j) (i) by omitting from section 319 (1) the following paragraph :—

(d) generally for carrying into effect the purposes of the ordinance.

Sec. 319.
(Additional provisions re ordinances.)

and by inserting instead the following paragraphs :—

- (e) for the classification of buildings or portions of buildings according to the purpose or purposes for which they are intended or apparently intended to be used or by reference to any other matters;
- (f) for the issue by the council of certificates of classification of buildings and for the revocation or amendment of any such certificates;
- (g) for the conditions under which buildings or portions of buildings of one

classification

Local Government (Further Amendment).

classification may be adapted for use as buildings or portions of buildings of another classification ;

- (h) for the establishment of fire zones in an area ;
 - (i) for the application of special provisions in respect of the erection of buildings in a fire zone ;
 - (j) for enabling or requiring the submission to the council of certificates of or reports by competent persons or bodies in respect of aspects of building design, or the use in or in connection with buildings of particular materials or combinations of materials, or forms or methods of construction of buildings ;
 - (k) generally for carrying into effect the purposes of the ordinance.
- (ii) by omitting section 319 (2) and by inserting instead the following subsection :—

(2) Any such ordinance may adopt wholly or partially or by reference any codes, rules, specifications or provisions which relate to any matter with which the ordinance deals and which are—

- (a) recommended or adopted by the Standards Association of Australia ;
- (b) recommended or adopted by—
 - (i) the American Society for Testing Materials, the British Standards Institution or the International Organization for Standardization ; or

(ii)

Local Government (Further Amendment).

- (ii) any other standards organisation or body of any place outside Australia, being an organisation or body declared by the Minister by order published in the Gazette to be an approved standards organisation or body for the purposes of this subsection;
- (c) included in any document issued by any Department of the Crown in right of this or any other State or the Commonwealth or issued by any instrumentality of this or any other State or the Commonwealth constituted by an Act of the Parliament thereof; or
- (d) approved by the Minister and published in the Gazette.

7. Part XXIII of the Principal Act is amended by inserting at the end of section 510 the following new subsections :—

(3) A person who is aggrieved by any decision of the council (whether the decision relates to a direction given by the council or otherwise) in the exercise or performance of its powers, authorities, duties or functions under subsection (1), or under any ordinance relating thereto, may appeal to the Tribunal against the decision of the council.

Further amendment of Act No. 41, 1919. (Part XXIII.—Miscellaneous Powers.) Sec. 510. (Advertisements.)

(4) Where the council gives a written notice to a person of any decision from which an appeal lies under subsection (3), the notice shall indicate that he has a right of appeal under this Act.

8.

Local Government (Further Amendment).

Further amendment of Act No. 41, 1919. (Part XXIX.—County Councils.) Sec. 564. (Powers.)

8. Part XXIX of the Principal Act is amended by inserting in section 564 (3) after the words “noxious plants” the words “, or to the construction, extension, protection, maintenance, control and management of works for the supply of electricity, the supply of electricity and the supply and installing of electrical fittings and appliances”.

Further amendment of Act No. 41, 1919. (Part XXX.—Supplementary.) Sec. 577. (Publication and commencement.)

9. Part XXX of the Principal Act is amended—

(a) by omitting section 577 (1) (c) and by inserting instead the following paragraph :—

(c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.

(b) by omitting section 577 (2) and by inserting instead the following subsections :—

(2) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after an ordinance has been laid before it, disallowing the ordinance or any part thereof, the ordinance or part thereupon ceases to have effect.

(2A) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session.

Amendment of Act No. 17, 1961. Sec. 20. (Approval of sub-division.)

10. The Conveyancing (Strata Titles) Act, 1961, is amended—

(a) by omitting from section 20 (3) the words “Land and Valuation Court in accordance with the provisions of section 342N of the Local Government Act, 1919, as amended by subsequent Acts, and

the

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the provisions of that section shall extend mutatis mutandis to and in respect of such appeal” and by inserting instead the words “Local Government Appeals Tribunal constituted under Part XIIb of the Local Government Act, 1919”;

- (b) by omitting from section 20 (5) the words “Land and Valuation Court” and by inserting instead the words “Tribunal referred to in subsection (3)”.

11. The Conveyancing (Strata Titles) Act, 1961, is further amended by inserting next after section 20 (2) the following new subsections :—

Further amendment of Act No. 17, 1961.

(2A) The local council to which an application for the issue of the certificate referred to in subsection (2) is made shall cause notice of its decision on the application to be given to the applicant.

Sec. 20.
(Approval of sub-division.)

(2B) Where the local council refuses to grant an application for the issue of the certificate referred to in subsection (2), the reasons for the local council’s decision shall be indicated in the notice given under subsection (2A), which shall also indicate that the applicant has a right of appeal under this section against the decision of the local council.

PART III.

SAVINGS, VALIDATIONS AND MISCELLANEOUS PROVISIONS.

DIVISION 1.—Provisions respecting Part II.

12. (1) In this section, “appeal” means appeal under section 289 (m) of the Principal Act.

Pending, etc., appeals under section 289 (m) of Principal Act: section 5.

(2) An appeal made before the commencement of this section shall, whether or not the hearing of the appeal has commenced, be heard and dealt with in all respects as if this Act had not been enacted.

(3)

Local Government (Further Amendment).

(3) For the purposes only of hearing and dealing with an appeal as referred to in subsection (2), the provisions of section 289 (m) of the Principal Act, as in force immediately before the commencement of section 5, relating to any such appeal shall continue in force notwithstanding any other provisions of this Act.

(4) The decision of the District Court judge on any appeal referred to in subsection (2) shall have the same force and effect as it would have had if this Act had not been enacted.

(5) Where an appeal had not been made before the commencement of this section but could, but for the enactment of this Act, have been made, immediately after that commencement, to a District Court judge—

- (a) the appeal may be made to the Local Government Appeals Tribunal under the provisions of the Principal Act, as amended by section 5 ; and
- (b) section 289 (m) of that Act, as so amended, shall, for the purposes only of so making the appeal, be deemed to be amended by omitting the words "one month" and by inserting instead the words "sixty days".

Savings:
section 6.

13. (1) The provisions of section 317B of the Principal Act shall continue to apply to and in respect of an order in force under that section immediately before the commencement of section 6 in all respects as if the amendments made by section 6 (a) had not been made.

(2) The provisions of Division 4B of Part XI of the Principal Act shall continue to apply to and in respect of any resolution in force under that Division immediately before the commencement of section 6, whether or not the resolution was adopted under that Division, in all respects as if the amendments made to that Division by section 6 had not been made.

Local Government (Further Amendment).

14. (1) In this section, "appeal" means appeal under section 20 of the Conveyancing (Strata Titles) Act, 1961.

Appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

(2) Section 11 of the Local Government (Appeals) Amendment Act, 1971, applies, and shall be deemed to have applied, to and in respect of an appeal, other than an appeal referred to in subsection (3) or (4), as if section 10 of this Act had been enacted as part of that Act.

(3) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, the Land and Valuation Court purported to give a decision in an appeal, the decision shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

(4) Where, after the commencement of the Local Government (Appeals) Amendment Act, 1971, but before the commencement of this section, an appeal, being an appeal pending at the commencement of this section, was made to, or was commenced or continued to be heard by, the Land and Valuation Court, the making or hearing of the appeal shall be, and shall be deemed to have been, as valid and effectual as if that Act and this Act had not been enacted.

15. (1) In this section, "appeal" means appeal referred to in section 14 (4).

Pending appeals under section 20 of Conveyancing (Strata Titles) Act: section 10.

(2) An appeal shall—

(a) if the hearing of the appeal has commenced, continue to be heard and dealt with in all respects as if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted; or

(b) if the hearing of the appeal has not commenced, be deemed to be an appeal made to the Local Government Appeals Tribunal.

(3)

Local Government (Further Amendment).

(3) For the purposes only of continuing to hear and deal with an appeal as referred to in subsection (2) (a), the provisions of section 20 of the Conveyancing (Strata Titles) Act, 1961, and the Principal Act, as respectively in force immediately before the commencement of the Local Government (Appeals) Amendment Act, 1971, shall be deemed to have continued and to continue in force notwithstanding any provision of the Local Government (Appeals) Amendment Act, 1971, or any other provision of this Act.

(4) The decision of the Land and Valuation Court on any appeal referred to in subsection (2) (a) shall have the same force and effect as it would have had if the Local Government (Appeals) Amendment Act, 1971, and this Act had not been enacted.

(5) The Registrar of the Land and Valuation Court shall, as soon as practicable after the commencement of this section, forward to the Local Government Appeals Tribunal all documents held by him and relating to any appeal referred to in subsection (2) (b).

DIVISION 2.—*Provisions respecting county councils.*

Validation:
functions,
powers and
duties of
county
councils.

16. (1) A proclamation which purported to be made under the Principal Act, as in force when the proclamation was made, and which was published before the commencement of this section, and by which any power or duty purported to be delegated to a county council, shall be deemed to have been and to be valid and effectual notwithstanding that a request for the delegation was not made, under and in accordance with section 564 (2) of that Act, by a majority of the constituent councils and notwithstanding any defect in the proclamation.

(2) Where, before the commencement of the Local Government (Amendment) Act, 1959—

(a) the boundaries of a county district were altered by adding thereto any area or part of an area, the provisions of section 564 (3A) of the Principal Act

shall

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shall be deemed to have applied to and in respect of the council of the county district, and shall be deemed to have so applied—

- (i) as if those provisions had been in force at the time of the alteration of the boundaries; and
 - (ii) as if a reference in those provisions to the date specified in the proclamation altering the boundaries of the county district were a reference to the date specified in that proclamation or a subsequent proclamation relating to that alteration as the date from which the council of the county district purported to be substituted for the council of that area, or, where no such date was so specified, to the date on which that alteration took effect;
- (b) two or more county districts were united, the provisions of section 564 (3B) of the Principal Act shall be deemed to have applied to and in respect of the council of the united county district, and shall be deemed to have so applied—
- (i) as if those provisions had been in force at the time of the union;
 - (ii) as if those provisions had been amended by omitting the words “under this Part”; and
 - (iii) as if a reference in those provisions to the date specified in the proclamation uniting the county districts were a reference to the date on which the union took effect; and
- (c) the boundaries of a county district were altered by excluding therefrom the whole or part of a constituent area without at the same time adding it to another county district, the provisions of section 564 (3C) of the Principal Act shall be deemed to have applied to and in respect of the
- council

Local Government (Further Amendment).

council of the county district and the council of the constituent area, and shall be deemed to have so applied as if those provisions had been in force at the time of the alteration of the boundaries.

(3) Where, after the commencement of the Local Government (Amendment) Act, 1959, and before the commencement of this section, a date was not specified in a proclamation referred to in section 564 (3A) or (3B) of the Principal Act as the date as on and from which the functions, powers and duties referred to therein shall be deemed to be delegated thereunder—

- (a) the proclamation shall be deemed to have been and to be valid and effectual notwithstanding that such a date was not so specified;
- (b) the date on which the alteration of boundaries or the union of county districts, as the case may be, took effect shall be deemed to have been specified in the proclamation as the date as on and from which those functions, powers and duties shall be deemed to be delegated; and
- (c) section 564 (3A) or (3B) of the Principal Act, as the case may be, shall be deemed to have operated accordingly.

(4) A person is not guilty of an offence arising by virtue of any act, matter or thing done or omitted to be done before the commencement of this section, being an offence of which he would not be guilty if this section had not been enacted.

(5) Nothing in subsection (2) applies to or in respect of the alteration of the boundaries of the Prospect County District and the Central West County District in so far as those boundaries were altered by the proclamations referred to in section 8 (2) (b) (iii) of the Local Government (Amendment) Act, 1959.

(6)

Local Government (Further Amendment).

(6) Without affecting the generality of the operation of subsection (2), that subsection applies to and in respect of the alteration of the boundaries of the Upper Hunter County District effected by the proclamation published in Gazette No. 165 of 13th December, 1957, with respect to that county district.

17. (1) In this section—

“constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

Validation:
Manning
River
County
District.

“the County Council” means the Manning River County Council;

“the County District” means the Manning River County District;

“the relevant period” means the period commencing on 24th December, 1965, and ending on 31st December, 1971.

(2) Subject to subsection (3)—

(a) any act, matter or thing that was, during the relevant period—

(i) done by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District, and would have been lawful if done by the County Council, and would, but for this subsection, have been unlawful, is validated, and shall be deemed to have been done by the County Council; or

(ii) suffered by a constituent council in connection with the works of water supply in the County District or the supply of water in the County District shall be deemed to have been suffered by the County Council; and

(2)

(b)

Local Government (Further Amendment).

(b) without affecting the generality of paragraph (a)—

- (i) all moneys and liquidated and unliquidated claims which immediately before the commencement of this section were payable to or recoverable by the constituent council in connection with the act, matter or thing shall respectively be moneys and liquidated and unliquidated claims payable to or recoverable by the County Council;
- (ii) all proceedings pending immediately before the commencement of this section at the suit of the constituent council in connection with the act, matter or thing shall be proceedings pending at the suit of the County Council; and
- (iii) all liquidated and unliquidated claims in connection with the act, matter or thing and for which the constituent council would, but for this section, have been liable shall be liquidated and unliquidated claims for which the County Council shall be liable.

(3) Any rates, charges and fees purporting to be made and levied by a constituent council during the relevant period in connection with the supply of water shall be deemed to have been—

- (a) validly made by the County Council; and
- (b) validly levied by the constituent council in pursuance of a requirement under section 572 of the Principal Act.

(4) The transfer before the commencement of this section to the County Council of any assets belonging to or held by a constituent council as at 31st December, 1971, in connection with works of water supply or the supply of water is validated.

(5)

Local Government (Further Amendment).

(5) Any charges purporting to be made by the County Council and imposed by it on a constituent council during the relevant period in connection with works of water supply or the supply of water shall be deemed to have been validly made and validly imposed, and any amount owing by the constituent council in respect of those charges at the commencement of this section shall be payable to the County Council forthwith after that commencement and recoverable by it as a debt in a court of competent jurisdiction.

18. (1) In this section—

“constituent councils” means the Councils of the Municipalities of Taree and Wingham and of the Shire of Manning;

Servants of Manning River County Council and constituent councils.

“the County Council” means the Manning River County Council;

“the transferring proclamation” means the proclamation published in Gazette No. 11 of 28th January, 1966, in respect of the County Council, under the Local Government Act, 1919, as in force on that date.

(2) Any person who, immediately before 1st March, 1966, was a servant of a constituent council shall be deemed to have continued on and after that day as a servant of the constituent council in all respects as if the transferring proclamation had never taken effect.

(3) Each constituent council shall confer with the County Council and—

(a) agree as to whether or not any of the persons who, at the commencement of this section, are servants of the constituent council and who, immediately before that commencement, were, whether wholly, principally or partly, employed in or in connection with works of water supply or the supply of water should be transferred to the service of the County Council; and

(b)

Local Government (Further Amendment).

(b) if they agree that any persons should be so transferred, shall agree upon an arrangement as to which of those persons so employed should be so transferred.

(4) In the event of any failure to agree under subsection (3) within one month after the commencement of this section or within such further period as the Minister may allow, the Minister may determine the question and, where appropriate, make an arrangement as to which persons should be transferred to the service of the County Council.

(5) An arrangement under this section shall be embodied in a proclamation.

(6) On the date specified in that behalf in the proclamation embodying an arrangement under this section—

(a) each of the persons included in the arrangement shall be transferred to the service of the County Council from the service of the constituent council to which the arrangement relates; and

(b) the provisions of section 564B (1) (m) of the Principal Act shall apply to and in respect of each of those persons, the County Council and the constituent council as if the transfer had been effected by the operation of section 564B (1) (m) (i) (a) thereof and as if a reference in section 564B (1) (m) thereof to the date of delegation were a reference to the date so specified in the proclamation.

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

Government House,

A. R. CUTLER,
Governor.

Sydney, 28th November, 1972.

(c)

