

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

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

*Legislative Assembly Chamber,
Sydney, 2 March, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1976.

An Act to confer additional powers on councils; and for this
and other purposes to amend the Local Government
Act, 1919.

BE

Local Government (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
5 follows:—

1. This Act may be cited as the "Local Government Short title.
(Amendment) Act, 1976".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Section 13 (c) and (d) shall commence on such
day as may be appointed by the Governor in respect thereof
and as may be notified by proclamation published in the
Gazette.

(3) Section 16 shall be deemed to have commenced
15 on 1st January, 1976.

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

4. Part III of the Principal Act is amended—

20 (a) by omitting from section 19 (1) (b) the words
"by fifty electors of any such area" and by inserting
instead the words "by not less than 250 electors
of any such area or, where any such area has
fewer than 2,500 electors, by not less than one-tenth
of the electors of that area";

Amend-
ment of
Part III of
Act No. 41,
1919.
Sec. 19.
(Proposals
for altera-
tion of
areas.)

(b)

Local Government (Amendment).

5 (b) by omitting from section 19 (1) (c) the words "by fifty electors of that part or by any number of electors not less than one-third of those enrolled in respect of land situated in that part; or" and by inserting instead the words "by not less than 250 electors of that part or, where that part has fewer than 2,500 electors, by not less than one-tenth of the electors of that part; or";

10 (c) by omitting section 19 (3) (b) and by inserting instead the following paragraph :—

(b) by not less than 250 electors of any such area or, where any such area has fewer than 2,500 electors, by not less than one-tenth of the electors of that area; or;

15 (d) by omitting from section 19 (3) (c) the words "by fifty electors of that part, or by any number of electors not less than one-third of those enrolled in respect of lands situated in that part" and by inserting instead the words "by not less than 250 electors of that part or, where that part has fewer than 2,500 electors, by not less than one-tenth of the electors of that part".

5. Part VII of the Principal Act is amended by omitting from section 160E (4) the words "held by the ratable person".

Amend-
ment of
Part VII of
Act No. 41,
1919.

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

Local Government (Amendment).

6. Part IX of the Principal Act is amended—

Amend-
ment of
Part IX of
Act No. 41,
1919.

- (a) by inserting after section 243 (5) the following subsection :—

Sec. 243.
(Cost of
paving,
kerbing
and
guttering
footways.)

- 5 (6) A reference in this section to an owner of land includes a reference to a lessee of land leased in perpetuity from the Crown.

- (b) (i) by omitting section 244 (1) and by inserting instead the following subsection :—

Sec. 244.
(Cost of
special
crossings.)

- 10 (1) Where the council constructs or repairs a special crossing over a footway in a public road for the traffic of vehicles across the footway to or from any land, it may recover in any court of competent jurisdiction the cost of the construction or repairs as a debt from the owner of the land or, where the crossing has been constructed or repaired at the request of the occupier of the land, from that occupier.
- 15

- (ii) by inserting after section 244 (2) the following subsection :—

- 20 (3) The reference in this section to an owner of land includes a reference to a lessee of land leased in perpetuity from the Crown.

(c)

Local Government (Amendment).

(c) by omitting section 249 (cc) and by inserting instead the following paragraph :—

Sec. 249.
(Care, control and management of roads.)

5 (cc) provide, control and manage sites for the accommodation of vehicles in or near the road and charge a fee for the use of any such site.

7. Part X of the Principal Act is amended by inserting after section 298 (1) the following subsection :—

Amendment of Part X of Act No. 41, 1919.
Sec. 298.

10 (1A) The council may provide, control and manage kindergartens, nurseries, child-care centres, family day-care centres and establishments of a similar nature.

(Provision and management.)

8. Part XI of the Principal Act is amended—

Amendment of Part XI of Act No. 41, 1919.

15 (a) (i) by omitting from section 308 (2) the words “A building” and by inserting instead the words “Subject to subsection (5) and to section 308A, a building”;

Sec. 308.
(Building line.)

(ii) by omitting from section 308 (5) the words “Notwithstanding the foregoing provisions of this section a” and by inserting instead the word “A”;

(b)

Local Government (Amendment).

(b) by inserting after section 308 the following **Sec. 308A.**
section :—

5 308A. (1) An application may be made to the Approval
council by or on behalf of any person who is the for erection
owner of land that is affected by a building line of building
fixed by section 308 (3) for approval for the without
erection on the land of a building without regard to building
the building line. line.

(2) The application shall—

10 (a) be in writing;

(b) contain or be accompanied by a plan
showing—

(i) the floor plan and the front and side
elevations of the proposed building;

15 (ii) the dimensions of the proposed
building; and

(iii) the location of the proposed build-
ing in relation to the public road to
which the building line relates; and

20 (c) be accompanied by the prescribed fee (if
any).

(3)

Local Government (Amendment).

(3) Before considering the application,
the council shall—

- 5 (a) serve on any person who is the occupier of
land the enjoyment of which, in the opinion
of the council, might be detrimentally
affected by the erection of the proposed
building a notice giving him particulars of
the application and inviting him, if he so
wishes, to object to the application not later
10 than such date as is specified in the notice,
being a date at least 14 days after service
of the notice; and
- 15 (b) publish in a newspaper circulating in the
district in which the land is situated a notice
giving particulars of the application and
inviting any person who claims to be the
owner of land the enjoyment of which might
be detrimentally affected by the erection of
the proposed building to object to the
20 application not later than such date as is
specified in the notice.

(4) The date specified in a notice referred
to in subsection (3) (b) shall be the same date as
that specified in a notice referred to in subsection
25 (3) (a).

(5) Any person on whom a notice has
been served under subsection (3) (a), and any
other person who claims that the enjoyment of land
owned by him will be detrimentally affected if the
30 proposed building is erected, may, not later than
the date specified in a notice served or published
under subsection (3), lodge with the council an
objection to the application.

(6)

Local Government (Amendment).

(6) Every such objection shall be in writing and shall specify the grounds of objection.

5 (7) Any person who attends the office of the council during the ordinary business hours of that office after the making of the application, but before the date by which objections to the application are required to be lodged under subsection (5), shall be entitled, on making a request to do so and
10 without payment of any fee, to inspect the plan contained in or accompanying the application.

(8) As soon as practicable after the date by which objections to the application are required to be lodged under subsection (5), the council shall
15 consider the application and any objections that have been so lodged.

(9) If, after considering the application, and, where any objections have been lodged under subsection (5), those objections, the council is of the opinion that—

20 (a) by reason of the terrain of the land to which the application relates or of other special circumstances, it is desirable to approve the application; and

25 (b) the interests of the applicant outweigh the interests of the persons who lodged the objections,

the council shall approve the application, either unconditionally or subject to such conditions as it specifies in the approval, but if it is not of that
30 opinion, it shall refuse the application.

(10) The council shall, as soon as practicable after approving or refusing the application, notify the applicant in writing of that approval or refusal.

Local Government (Amendment).

5 (11) At any time after approval of an application has been notified under subsection (10), the building shown in the plan contained in or accompanying the application may, subject to any conditions specified in the approval and to compliance with Division 4, be erected without regard to the building line.

10 (12) Division 4c does not apply to or in respect of any application made under this section or to or in respect of any decision of the council in relation to any such application.

(c) by inserting after section 312 (3) the following subsection :— Sec. 312.
(Applica-
tion.)

15 (4) The reference in this section to an owner includes a reference to a lessee of land leased in perpetuity from the Crown.

(d) by omitting section 314 (1A) (c) and (d) and by inserting instead the following paragraphs :— Sec. 314.
(Duty of
council.)

20 (c) the only departures from the standard prescribed in Schedule 7 and applicable in the particular case are that—

25 (i) the building is to occupy the whole of the allotment on which the building is to be erected or a greater proportion of the allotment than is prescribed by that standard; and

(ii) the external walls of the building are not to be set back as far as required by that standard; and

30 (d) the total floor plan area as defined in Schedule 7 is not to exceed one and one-half times the total area of the site as so defined; and

(da)

Local Government (Amendment).

- (da) if the council so requires, an area of open space for the common use of all occupants of the residential part of the building is to be provided either at ground level or in or above the part of the building that is used for residential purposes or partly at ground level and partly in or above the part of the building that is used for residential purposes; and

9. Part XII of the Principal Act is amended—

Amend-
ment of
Part XII of
Act No. 41,
1919.

- (a) (i) by omitting paragraph (b) of the definition of "current plan" in section 327AA (1) and by inserting instead the following paragraph :—
- (b) a Crown plan (whether made before or after the commencement of the Local Government (Amendment) Act, 1970) showing lots or portions, but does not include—
- (i) a Crown plan which shows land specified in the plan as being proposed to be resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land unless it is a plan referred to in paragraph (g) of the definition of "plan of subdivision" in this subsection;
- (ii) a Crown plan which shows land specified in the plan as being leased or proposed to be leased for a period that, including any period of renewal, does not or will not exceed five years;

(iii)

Local Government (Amendment).

- 5 (iii) so much of a Crown plan as relates to land included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was prepared; or
- 10 (iv) so much of a Crown plan as relates to land included in a subsequent Crown plan showing lots or portions;
- (ii) by inserting in section 327AA (2) after the words "option of renewal)" the words "or be mortgaged";
- 15 (iii) by inserting in section 327AA (2) after the words "any disposition" the words "or mortgage";
- (iv) by inserting in section 327AA (4) (a) after the words "disposed of" the words "or mortgaged";
- 20 (v) by inserting in section 327AA (4) (b) after the words "disposed of" the words "or mortgaged";
- (vi) by inserting in section 327AA (4) (c) after the words "the disposition" the words "or mortgaging";
- 25 (vii) by inserting in section 327AA (4) (c) (i) after the words "disposes of" the words "or mortgages";
- 30 (viii) by inserting in section 327AA (4) (c) (ii) after the words "dispose of" the words "or mortgage";
- (ix) by omitting from section 327AA (4) (c) (ii) the word "or" where secondly occurring;
- (x)

Local Government (Amendment).

- (x) by inserting in section 327AA (4) (d) after the words "the disposition" the words "or mortgaging";
- 5 (xi) by omitting from section 327AA (4) (d) the words "Crown plan that is not a current plan." and by inserting instead the following words and paragraphs :—
- Crown plan that is not a current plan;
- 10 (e) the disposition of land that is part of a lot or portion in a current plan where the part of the lot or portion is vested in a person in the capacity of executor, administrator or trustee and—
- 15 (i) no other part of the lot or portion is vested in him in that capacity and the disposition is or gives effect to a sale by him in the execution of his powers as executor, administrator or trustee or is made for the purpose of giving effect to the terms of a will or codicil or a deed of settlement or for the purpose of distributing the estate of a deceased intestate;
- 20 or
- 25 (ii) the disposition gives effect to the terms of a will, codicil or deed of settlement executed before the registration of the current plan;
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- 35 (f) the disposition of land that is part of a lot or portion in a current plan by a mortgagee exercising a power of sale under a mortgage which was executed before the date of assent to the Local

Government

Local Government (Amendment).

Government (Amendment) Act, 1976,
where no other part of that lot or
portion is subject to the mortgage; or

5 (g) the disposition of land that is part of
a lot or portion in a current plan where
the disposition—

(i) is necessary to give effect to
an order, direction or judgment
10 of a court of competent
jurisdiction;

(ii) is or gives effect to a sale of
land pursuant to a writ of
execution;

15 (iii) is or gives effect to a sale of
land pursuant to section 602;

(iv) is or gives effect to a sale of
land pursuant to section 61 of
the Mental Health Act, 1958;
or

20 (v) is or gives effect to a sale of
land pursuant to any power
conferred by or under the
Bankruptcy Act 1966 of the
Parliament of the Common-
wealth,

25 and the person making the disposition
does not have power to dispose of any
other part of the lot or portion.

30 (b) (i) by omitting from section 340c (1) the words "by proclamation" and by inserting instead the words "by a notice";

(ii) by omitting from section 340c (1) the words "such proclamation" and by inserting instead the words "that notice".

Sec. 340c.
(Vesting of
certain
land in
councils
by notice.)

Local Government (Amendment).

10. Part XIIA of the Principal Act is amended—

Amendment
of Part XIIA
of Act No.
41, 1919.

- (a) by omitting from section 342ZA (2) the words “Conveyancing (Strata Titles) Act, 1961” and by inserting instead the words “Strata Titles Act, 1973”;
- (b) by omitting from section 342ZA (3) the word “or” where firstly occurring.

Sec. 342ZA.
(Objections
to residential
flat
buildings
and certain
other de-
velopment.)

11. Part XIII of the Principal Act is amended—

Amend-
ment of
Part XIII of
Act No. 41,
1919.

- (a) by inserting after section 351 the following sections :—

Secs. 351A,
351B and
351C.

351A. (1) The council may by resolution regulate and control—

Parking
areas on
public
reserves.

- (a) the taking of vehicles, or vehicles of any class or description specified in the resolution, on to any public reserve under its care, conduct and control; and
- (b) the use of vehicles, or vehicles of any class or description so specified, within any such public reserve.

(2) In subsection (1)—

“use” includes parking;

“vehicles” includes vehicles other than motor vehicles.

351B. (1) Where an offence against any ordinance made under section 367 (2) is committed in relation to any motor vehicle, the person who

Liability
of vehicle
owner for
certain
offences.

at

Local Government (Amendment).

at the time of the commission of the offence was the owner of the vehicle shall, by virtue of this section, be guilty of an offence against the ordinance as if he were the actual offender, unless the court is

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(2) Subsection (1) does not affect the liability of the actual offender, but, where a penalty has been imposed or recovered from any person in relation to any offence referred to in that subsection, no further penalty shall be imposed on or recovered in respect of the offence from any other person.

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(3) In this section—

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“owner”, in relation to a motor vehicle, includes—

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(a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;

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(b) the person in whose name the vehicle is registered except where that person has sold or otherwise disposed of the vehicle and has complied with the regulations under the Motor Traffic Act, 1909, applicable to him with respect to the sale or disposal; and

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(c) in the case of a vehicle to which a trader's plate has been affixed, the person to whom the trader's plate is issued;

35

“registered” means registered under the Motor Traffic Act, 1909;

“trader's

Local Government (Amendment).

“trader’s plate” means a trader’s plate issued under regulations made pursuant to the Motor Traffic Act, 1909.

5 351c. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 351B is guilty of, an offence against an ordinance made under section 367 (2), the servant may serve a notice on the person to the effect that if that person does not desire to have the matter determined by a court, the person may pay to a servant of the council who is specified in the notice, within the period so specified, the amount of penalty prescribed for the offence if dealt with under this section.

15 (2) A notice under subsection (1)—
 (a) may be served personally or by post; or
 (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 351B, may be served by addressing it to the owner without naming him or stating his address and leaving it on or attaching it to the vehicle.

25 (3) A person alleged to have committed, or to be guilty of, an offence to which subsection (1) applies has the right to decline to be dealt with under this section.

30 (4) A person who fails to pay the penalty within the period specified in the notice served on him under subsection (1), or within such extended period as may be allowed in any particular case, is deemed to have declined to be dealt with under this section.

(5)

Local Government (Amendment).

5 (5) Where the amount of penalty prescribed in respect of an alleged offence is paid pursuant to this section, no further proceedings shall be taken against any person in relation to that offence.

10 (6) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of, nor in any way prejudice, any civil proceedings arising out of the same occurrence.

(7) The council may by resolution—

15 (a) fix the amount of penalty payable under this section for any offence referred to in subsection (1), not exceeding the maximum penalty for the offence imposed by or under this Act; and

(b) for the purposes of this section, fix the amount of penalty payable—

20 (i) for different offences or classes of offences;

(ii) for offences or classes of offences having regard to the circumstances in which, or the manner in which, the offences are committed; or

25 (iii) for offences or classes of offences committed on different public reserves.

30 (8) This section is in addition to any other section of this or any other Act relating to proceedings which may be taken in respect of offences.

(b) by inserting at the end of section 367 the following subsection :—

35 (2) Ordinances may be made for carrying sections 351A, 351B and 351C into effect.

Sec. 367.
(Ordinances.)

Local Government (Amendment).

12. Part XVII of the Principal Act is amended by inserting after section 419 the following section :—

Amendment
of Part
XVII of Act
No. 41,
1919.
Sec. 419A.

419A. (1) Subject to subsection (2), where—

Limitation
on recovery
of charges
for gas or
electricity
supplied.

5 (a) the council has, whether before or after the date of assent to the Local Government (Amendment) Act, 1976, supplied a quantity of gas or electricity to any person; and

10 (b) by reason of an error by the council or any servant of the council—

(i) no account showing the amount payable with respect to the quantity so supplied is rendered to that person within 2 years after the date on which such an account would have been rendered to him but for the error; or

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20 (ii) where an account with respect to the quantity so supplied has been rendered to him within that period, the amount shown in the account as being payable for the quantity stated to have been supplied (whether the quantity so stated was the quantity actually supplied or not) was less than that which would have been payable but for the error and no further account is rendered to him within that period showing the additional amount that is payable with respect to the quantity so supplied,

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35 no action is, after the date of assent to the Local Government (Amendment) Act, 1976, maintainable by the council for the recovery of that amount or additional amount, as the case may be.

(2)

Local Government (Amendment).

(2) For the purpose of subsection (1), the expression "error" includes—

5 (a) an error of omission or calculation, whether in relation to the quantity of gas or electricity supplied or the amount payable for that quantity; and

(b) an error of an administrative or clerical nature,

but does not include—

10 (c) an error that was induced by fraud committed by or with the connivance of the person to whom the quantity of gas or electricity was supplied; or

15 (d) an error that is attributable to the fact that—

20 (i) the quantity of gas or electricity so supplied was consumed without having passed through a meter provided by the council for the purpose of measuring the consumption of gas or of electricity, as the case may be; or

25 (ii) where the quantity of gas or electricity so supplied has passed through a meter so provided, the meter has, whether because of mechanical fault, incapacity of the meter or other cause, failed to record that quantity or failed to
30 record that quantity correctly.

Local Government (Amendment).

13. Part XXIII of the Principal Act is amended—

Amend-
ment of
Part XXIII
of Act No.
41, 1919.

- (a) by inserting after section 500A the following sections :—

Secs. 500B
and 500c.

5 500B. (1) Subject to this section, the council
may, on the application of any person who is the
owner of ratable land within the council's area,
lend money to that person for the purpose of
assisting him in meeting the cost of the work
involved in connecting premises on that land with
10 a sewer of a statutory body representing the Crown.

Loans for
sewer con-
nections.

 (2) A loan under subsection (1) may be
made at such rate of interest, and subject to such
conditions and provisions, as the council thinks fit
to impose, and in particular any such provisions
15 may include a provision requiring the applicant to
pay to the council by equal instalments, and within
such period as may be prescribed for the purpose
of this subsection, an amount equal to the amount
of the loan together with the total amount of interest
20 due in respect of the loan.

 (3) The provisions of this Act with
respect to the charge of a rate on land in respect of
which it is levied shall apply to the amount of a
loan made under subsection (1) and of any interest
25 due in respect of the loan as if the amount were
a rate so charged and as if the land with respect
to which the loan was made were land in respect
of which that rate had been levied.

30 500c. (1) Subject to this section, the council
may, on the application of a person who is the
owner of ratable land within the council's area,
lend money to that person for the purpose of
assisting him in meeting the cost of the work
involved in installing on that land any water storage

Loans for
the pro-
vision of
water
storage
facilities.

tank

Local Government (Amendment).

tank or other water storage facility for use in connection with any residential premises on that land.

5 (2) A loan under subsection (1) may be made at such rate of interest, and subject to such conditions and provisions, as the council thinks fit to impose, and in particular any such provisions may include a provision requiring the applicant to pay to the council by equal instalments, and within such
10 period as may be prescribed for the purpose of this subsection, an amount equal to the amount of the loan together with the total amount of interest due in respect of the loan.

15 (3) The provisions of this Act with respect to the charge of a rate on land in respect of which it is levied shall apply to the amount of a loan made under subsection (1) and of any interest due in respect of the loan as if the amount were a rate so charged and as if the land with respect to
20 which the loan was made were land in respect of which that rate had been levied.

- (b) by omitting from section 504 the words "one thousand dollars" wherever occurring and by inserting instead the matter "\$2,000";
- 25 (c) by inserting after section 510B the following section :—

510c. (1) In this section—

30 "owner", in relation to an article, includes a person who is the joint or part owner of the article and a person to whom the article has been let under a hire-purchase agreement, a hiring agreement or a leasing agreement;

Sec. 504.
(General fund may be applied to any purpose.)
Sec. 510c.
Power to impound prescribed articles left unattended or abandoned in or on council property.

"prescribed

Local Government (Amendment).

“prescribed article” means any chattel or other thing of a description or class prescribed for the purposes of this section.

5 (2) Any prescribed article left un-
attended or abandoned in or on any public place,
public reserve, free parking area or other premises
or land vested in or under the care, control and
10 management of the council may be impounded by a
proper servant of the council and removed to a
place set apart by the council for the storage of
articles impounded under this subsection.

15 (3) An application for the release of an
article impounded under subsection (2) may be
made to the servant of the council in charge of the
place where the article is stored by or on behalf of
any person claiming to be the owner of the article
at any time before the article is sold or disposed
of under this section, and, on the making of such
an application, the article shall be released to the
20 applicant if—

(a) that servant of the council is satisfied that
the applicant is the owner of the article or,
as the case may be, that the person on whose
25 behalf the application is made is the owner
of the article and that the applicant has that
owner’s authority to make the application
on his behalf; and

(b) the applicant—
(i) pays the charge (if any) prescribed
30 for the storage of the article; and
(ii) signs a receipt for the article on a
form supplied to him by that servant
of the council.

35 (4) An article impounded under sub-
section (2) which, in the opinion of the council, has
no monetary value may forthwith be disposed of in
such manner as the council thinks fit.

(5)

Local Government (Amendment).

(5) Where an article impounded under subsection (2) has, in the opinion of the council, a monetary value, the council shall—

5 (a) if it has particulars of a person who is
apparently the owner of the article sufficient
to identify and locate him, serve on that
person a notice to the effect that the article
is in the possession of the council and that
10 application for the release of the article may
be made in accordance with subsection (3);
or

15 (b) if it does not have those particulars, cause
to be published in a newspaper circulating
in the district where the article was
impounded a notice to the effect that the
article is in the possession of the council
and that application for the release of the
article may be made in accordance with
subsection (3).

20 (6) A notice served pursuant to subsection (5) (a) or published pursuant to subsection (5) (b) shall be in or to the effect of the prescribed form.

25 (7) If an article in respect of which a
notice has been served or published in accordance
with subsection (5) is not, within the prescribed
period after that service or publication, released to a
person pursuant to an application made under
subsection (3), the council may cause the article
30 to be offered for sale by public auction.

Local Government (Amendment).

(8) If an article offered for sale in accordance with subsection (7) is sold, the following provisions shall apply :—

- 5 (a) the purchaser of the article shall obtain the ownership of the article freed and discharged from any right, interest, charge, trust or obligation to which the article was subject immediately before the sale;
- 10 (b) after deducting the expenses of the sale and an amount equal to the charge (if any) prescribed for the storage of the article, any balance of the proceeds of sale shall be held by the council on trust for the person who, immediately before the sale, was the owner of the article;
- 15 (c) on application being made to the council at any time within six years after the date of the sale, the council may, if it is satisfied that the applicant was the owner of the article immediately before the sale, pay to him the balance (if any) of the proceeds of sale, and the receipt of that applicant shall be an effectual discharge to the council for that balance; and
- 20 (d) if no application is made under paragraph (c) within the period mentioned in that paragraph, the council may transfer the balance (if any) of the proceeds of sale to such fund as it thinks fit and thereupon the amount of that balance shall become the property of the council freed and discharged from the trust mentioned in paragraph (b).
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35 (9) An article offered for sale in accordance with subsection (7) that is not sold may be disposed of in such manner as the council thinks fit.

Local Government (Amendment).

5 (10) Where an article impounded under subsection (2) is sold or otherwise disposed of in accordance with this section and the council, in effecting that sale or disposal, has acted in good faith and with reasonable care, no person claiming to have been the owner of the article immediately before the sale or disposal shall, except in relation to the balance of the proceeds of sale (if any) held by the council in accordance with subsection (8) 10 (b), have any claim in respect of the article or any right of action against the council or any other person, whether in conversion or otherwise, in relation to the sale or disposal of the article.

15 (d) by omitting from section 513 (1) (t) the word "Act." and by inserting instead the following word and paragraph :—

Act;

20 (u) prescribing all matters or things which may be necessary for carrying into effect section 510c.

(e) by omitting section 514 and by inserting instead the following section :—

514. The council may be a member of—

- 25 (a) the Local Government Association of New South Wales;
- (b) the Shires Association of New South Wales;
- (c) The Local Government Electricity Association of New South Wales;
- (d) The Australian Gas Association; or
- 30 (e) any other association or organisation prescribed for the purpose of this section,

Membership of, and payment of subscriptions to, certain associations and organisations.

and

Local Government (Amendment).

5 and may pay subscriptions to any such association or organisation, or to any council, committee or section of, or in connection with any meeting, conference or convention held by, any such association or organisation.

14. Part XXV of the Principal Act is amended—

Amendment
of Part XXV
of Act No.
41, 1919.

10 (a) by omitting from section 536A (1) the words
“charges, rates, rights of way, or easements
whatsoever.” and by inserting instead the words
“charges and rates and, subject to subsection (1A),
from all easements.”;

(b) by inserting after section 536A (1) the following
subsections :—

15 (1A) There may be excepted from the vesting of
any land to which any such notice and description
relate—

(a) any easement specified in the notice and to
which the land was subject immediately
before the vesting; and

20 (b) any easement so specified that is appurtenant
to any such easement.

25 (1B) Where, pursuant to subsection (1A), an
easement is excepted from a vesting of land and,
immediately before that vesting, there was annexed
to the easement the benefit of a restriction as to
user, that restriction shall, unless otherwise specified
in the notice by which the vesting is effected,
continue to have effect as if the vesting had not
taken place.

Local Government (Amendment).

15. Part XXX of the Principal Act is amended by omitting from section 628 (3) (b) the word "ordinance." and by inserting instead the following words and paragraph :—

Amendment
of Part XXX
of Act No.
41, 1919.
Sec. 628.
(Ratable
persons,
owners,
and
occupiers.)

ordinance ; and

- 5** (c) in the case of the service of a rate notice, the service may be effected by delivering the notice to the premises at which the person to be served lives or carries on business and depositing it in a box or receptacle at, on or in the proximity of those
- 10** premises that is provided, used or designed for the reception of letters addressed to that person.

16. Schedule 3 to the Principal Act is amended—

Amendment
of Schedule
3 to Act
No. 41,
1919.

- (a) by inserting in section 1A after the definition of "Site improvements" the following definition :—

Sec. 1A.
(Defini-
tions.)

- 15** "Stratum" has the meaning ascribed to that expression by section 4 (1) of the Valuation of Land Act, 1916.

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

Sec. 2.

- 20** 2. (1) This section applies to land other than a stratum and shall be read subject to the special provisions of this Schedule relating to mines.

Unimproved
capital value
of land
other than
stratum.

- 25** (2) Subject to this section, the unimproved capital value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require,

assuming

Local Government (Amendment).

assuming that the improvements, if any, on or appertaining to the land, and made or acquired by the owner or any of his predecessors in title, had not been made.

5 (3) Notwithstanding anything in subsection (2), in determining the unimproved capital value of any land it shall be assumed that—

10 (a) the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used—

(i) in the case of a determination of any such value before 1st January, 1976 —at the date to which the valuation relates; or

15 (ii) in the case of a determination of any such value on or after that date—at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

25 (b) such improvements as may be required in order to enable the land to continue to be so used may be continued or made on the land,

30 but nothing in this subsection prevents regard from being had, in determining that value, to any other purpose for which the land may be used on the assumption that the improvements, if any, referred to in subsection (2) had not been made.

(4)

Local Government (Amendment).

(4) The references in subsections (2) and (3) to improvements do not include site improvements.

5 (5) Subject to subsections (6) to (13), for the purposes of this section there shall, in determining the unimproved capital value of any land, be allowed a reasonable deduction for profitable expenditure by the owner, occupier or lessee of the land in respect of—

10 (a) the effective site improvements, if any, on or appertaining to the land; and

15 (b) the visible and effective improvements, if any, which, although not on the land, have been constructed for its drainage, for its protection from inundation or otherwise for its more beneficial use.

(6) The amount of any deduction allowed under subsection (5) for profitable expenditure shall not—

20 (a) where the value is determined before 1st January, 1976, exceed the amount that the improvements would have cost if they had been made at the date of the determination; or

25 (b) where the value is determined on or after 1st January, 1976, exceed the amount that the improvements would have cost if they had been made at the date as at which the value is determined.

(7)

Local Government (Amendment).

(7) A deduction allowed under subsection (5) for profitable expenditure in respect of effective site improvements on or appertaining to any land shall cease to be allowable—

5 (a) in the case of expenditure incurred by the owner of the land—

(i) on the sale or resumption of the land; or

10 (ii) on the expiration of 15 years after the expenditure was incurred,

whichever first occurs; or

(b) in the case of expenditure incurred by the occupier or lessee (if any) of the land—

15 (i) on the transfer, surrender or expiration of the occupancy or lease; or

(ii) on the expiration of 15 years after the expenditure was incurred,

whichever first occurs.

20 (8) Where land has been sold or leased by the Crown, a deduction under subsection (5) shall not be allowed where the expenditure was incurred by the Crown except to the extent to which the Crown has been recouped in respect of that
25 expenditure by the purchaser or lessee, otherwise than by payment of rent, rates or taxes.

(9)

Local Government (Amendment).

5 (9) Where the unimproved capital value of any land is determined on or after 1st January, 1976, the amount of any deduction allowed under subsection (5) shall be calculated on the assumption that—

- (a) the amount of the deduction is being calculated at the date as at which the unimproved capital value is being determined; and
- 10 (b) any improvements referred to in subsection (5) in existence at the relevant date (as defined in section 6A (6) of this Schedule) were in existence at the date as at which that value is being determined.

15 (10) Where—

- (a) the unimproved capital value of any land is determined as at a date on or after 1st January, 1976; and
- 20 (b) the occupier of the land is one of a number of occupiers authorised under Division 4 of Part II of the Water Act, 1912, to construct and use a joint water supply scheme,

25 the reference in subsection (5) to profitable expenditure by an owner, occupier or lessee of land shall, in respect of that joint water supply scheme, be deemed to include that part of the profitable expenditure that bears the same proportion to the total profitable expenditure incurred in carrying out those works as the amount contributed by that

30 occupier bears to the total cost of the works.

(11) Subject to subsection (12), on and after 1st January, 1976, a deduction in relation to a joint water supply scheme may, in respect of any land referred to in subsection (10), be ascertained

at

Local Government (Amendment).

5 at any time before the next determination of the unimproved capital value of that land, and subsections (6), (7) and (8) and subsections (14) and (15) shall apply in respect of that deduction as if it were a deduction to which subsection (5) relates.

(12) The deduction referred to in subsection (11) shall—

- 10 (a) be ascertained only in respect of such of the improvements referred to in subsection (5) as were in existence as at the date at which the last determination of the unimproved capital value of the land was made; and
- (b) be ascertained on the assumption that the deduction is being calculated as at that date.

15 (13) In levying rates on the basis of the unimproved capital value of land to which this Schedule relates any deduction allowed under subsection (5) shall be in addition to any deduction or reduction allowed or required to be made under

20 this or any other Act.

(14) A deduction allowed under subsection (5) shall be noted separately in the council's valuation book and in the notice of valuation, and an objection may be made in respect of that deduction in accordance with this Schedule as if the

25 deduction were a valuation.

(15) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that a deduction has not

30 been allowed under subsection (5).

(c)

Local Government (Amendment).

- (c) by omitting section 2A (1) and (2) and by inserting instead the following subsections :—

Sec. 2A.
(Unimproved capital value of strata.)

5 (1) This section applies to land that is a stratum, and shall be read subject to the special provisions of this Schedule relating to mines.

10 (1A) The unimproved capital value of a stratum is the capital sum which the fee-simple of the stratum might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require assuming—

15 (a) that the improvements, if any, within the stratum and made or acquired by the owner or any of his predecessors in title had not been made except that where the stratum is wholly or partly in an excavation it shall be assumed that the excavation of the stratum had been made;

20 (b) that means of access to the stratum may be used, and may continue to be used, as they were being used—

(i) in the case of a determination of any such value before 1st January, 1976 —at the date to which the valuation relates; or

25 (ii) in the case of a determination of any such value on or after that date—at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as
30 at which the value is being determined; and

Local Government (Amendment).

(c) that all land outside the stratum, including land of which the stratum forms part, is in the state and condition existing at the date referred to in paragraph (b), and in particular, without limiting the generality of this assumption, that, where the stratum consists partly of a building, structure or work or is a portion of a building, structure or work, that building, structure or work, to the extent that it is outside the stratum, had been constructed or, as the case may be, performed.

(1B) Notwithstanding anything in subsection (1A), in determining the unimproved capital value of a stratum it shall be assumed that—

(a) the stratum may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used—

(i) in the case of a determination of any such value before 1st January, 1976 —at the date to which the valuation relates; or

(ii) in the case of a determination of any such value on or after that date— at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

(b)

Local Government (Amendment).

(b) such improvements as may be required in order to enable the stratum to continue to be so used may be continued or made in the stratum,

5 but nothing in this subsection prevents regard being had, in determining that value, to any other purpose for which the stratum may be used on the assumptions set out in subsection (1A).

10 (1C) Subject to subsection (1D), for the purpose of this section there shall, in determining the unimproved capital value of any stratum, be allowed a reasonable deduction for profitable expenditure made by the owner or occupier of the stratum in respect of visible and effective improve-
15 ments, if any, which, although not in the stratum, have been constructed exclusively for the benefit of the stratum or the improvements in it.

(1D) Where the unimproved capital value of any stratum is determined on or after 1st January, 1976,
20 the amount of any deduction allowed under subsection (1C) shall be calculated on the assumption that—

(a) the amount of the deduction is being
25 calculated at the date as at which the unimproved capital value is being determined; and

(b) any improvements referred to in subsection
30 (1C) in existence at the relevant date (as defined in section 6A (6) of this Schedule) were in existence at the date as at which that value is being determined.

(1E)

Local Government (Amendment).

5 (1E) In levying rates on the basis of the unimproved capital value of a stratum any deduction allowed under subsection (1C) shall be in addition to any deduction or reduction allowed or required to be made under this or any other Act.

10 (2) Any deduction allowed under subsection (1C) shall be noted separately in the council's valuation book and in the notice of valuation, and an objection may be made in respect of that deduction in accordance with this Schedule as if the deduction were a valuation.

15 (2A) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that a deduction has not been allowed under subsection (1C).

20 (d) by inserting in section 2B after the word "Schedule" the words "and the amount of any deduction allowed or required to be made under any Act when levying rates on the basis of the unimproved capital value of the land";

Sec. 2B.
(Rates to be levied on unimproved capital value less deductions.)

(e) by omitting section 4 (1) and by inserting instead the following subsection :—

Sec. 4.
(Assessed annual value.)

(1) The assessed annual value of land other than a stratum is—

25 (a) nine-tenths of the fair average annual value of the land, with improvements, if any, on the land; or

(b) five per centum—

30 (i) of the improved capital value of the land in the case of a value determined before 1st January, 1976; or

(ii)

Local Government (Amendment).

(ii) of the unimproved capital value of the land in the case of a value determined on or after 1st January, 1976,

5 whichever is the greater.

(f) by inserting after section 4 the following section :— Sec. 4A.

4A. The assessed annual value of a stratum is— Assessed annual value of strata.

10 (a) nine-tenths of the fair average annual value of the stratum, with the improvements, if any, in the stratum; or

(b) five per centum—

15 (i) of the improved capital value of the stratum in the case of a value determined before 1st January, 1976; or

(ii) of the unimproved value of the stratum in the case of a value determined on or after 1st January, 1976,

20 whichever is the greater

(g) by omitting section 6 (2) and (3) and by inserting Sec. 6. (Compulsory and optional valuations.) instead the following subsections :—

25 (2) There shall be a determination of the improved capital value of all ratable land within a municipality, except that on and after 1st January, 1976, such a determination shall be made only if the council of the municipality so decides.

(3)

Local Government (Amendment).

(3) There shall be a determination of the assessed annual value of all ratable land in the whole or any part of a municipality or shire—

5 (a) whenever such a determination is required in respect of that land for the purposes of this or any other Act; or

10 (b) whenever the council of the municipality or shire is requested in writing by a rating or taxing authority to make such a determination in respect of that land,

but in all other cases such a determination shall be made only if the council so decides.

15 (3A) The operation of section 8A of this Schedule is not affected by any valuation carried out under this section.

(h) by inserting after section 6 the following section :— Sec. 6A.

20 6A. (1) Subject to this section, where the unimproved capital value or the assessed annual value of any land is determined on or after 1st January, 1976, the value determined shall— Date at which certain values are to be determined.

25 (a) if part of a valuation made pursuant to section 8 (1) of this Schedule commenced on or after 1st January, 1976, be the unimproved capital value or the assessed annual value, as the case may be, of the land as at the first day of January in the year in which that valuation commenced; or

30 (b) if not part of such a valuation, be the unimproved capital value or the assessed annual value, as the case may be, of the land as at the first day of January in the year in which the preceding valuation under

section

Local Government (Amendment).

section 8 (1) of this Schedule for the area or part of the area in which the land is situated—

- 5 (i) in the case of a valuation made pursuant to section 8 (2) of this Schedule (not being a valuation made pursuant to section 10 (3) of this Schedule)—commenced;
- 10 (ii) in the case of a valuation made pursuant to section 8A (1) of this Schedule—commenced before the date on which the land concerned became ratable;
- 15 (iii) in the case of a valuation made pursuant to section 8A (2) of this Schedule—commenced;
- 20 (iv) in the case of a valuation made pursuant to section 10 (3) of this Schedule—commenced before the date on which the land concerned was sold, conveyed or resumed, as the case may be; or
- 25 (v) in the case of a valuation made pursuant to section 10 (3A) of this Schedule—commenced.

30 (2) In the application of subsection (1), in determining the unimproved capital value or the assessed annual value of land (not being a value determined pursuant to section 8A (2) or 10 (3A) of this Schedule), it shall be assumed—

- (a) in the case of land (other than a stratum) that—
 - (i) the physical condition of the land and of any other land; and
 - (ii)

Local Government (Amendment).

(ii) the manner in which any other land may be used; and

(b) in the case of a stratum, that—

(i) the physical condition of the stratum; and

(ii) the manner in which land outside the stratum (including the land of which the stratum forms part) may be used,

were the same on the date as at which the value is being determined as they are or were on the relevant date.

(3) In the application of subsection (1), in determining the assessed annual value of a stratum (other than a valuation made pursuant to section 8A (2) of this Schedule), it shall be assumed that the physical condition of any land outside the stratum (including the land of which the stratum forms part) was the same on the date as at which the value is being determined as it is or was on the relevant date.

(4) A certificate purporting to be signed by the clerk certifying that—

(a) a valuation is or is not part of a valuation made pursuant to section 8 (1) of this Schedule;

(b) a valuation made pursuant to section 8 (1) of this Schedule commenced on a date specified in the certificate; or

(c)

Local Government (Amendment).

5 (c) the last valuation made pursuant to section 8 (1) of this Schedule in respect of an area or part of an area specified in the certificate before the date on which the certificate is given commenced on a date so specified,

shall be admissible in all proceedings before any court or tribunal as evidence of that fact.

10 (5) This section does not apply to a valuation of land made pursuant to section 8 (3) of this Schedule.

(6) In this section "relevant date" means—

15 (a) in the case of a valuation of any land that is part of a valuation made pursuant to section 8 (1) or (2) of this Schedule (not being a valuation made pursuant to section 10 (3) of this Schedule), the date on which the valuation is made;

20 (b) in the case of a valuation of land made pursuant to section 8A (1) of this Schedule, the date on which the land became ratable; or

25 (c) in the case of a valuation of land made pursuant to section 10 (3) of this Schedule, the date on which the land was sold, conveyed or resumed, as the case may be.

(i) by omitting section 8 (3) and by inserting instead the following subsections :—

Sec. 8.
(Valuation periods.)

30 (3) Where any non-ratable land has become ratable before 1st January, 1976, that land shall be valued as at the date on which it becomes ratable, whether or not the valuation is made before or on or after that date.

(4)

Local Government (Amendment).

5 (4) A valuation made pursuant to subsection (3) shall be entered in the council's valuation book and shall have effect for rating purposes as if it had been made and entered, and come into force, on the date as at which it is deemed to have been made.

(j) by inserting after section 8 the following section :— Sec. 8A.

10 8A. (1) Where on or after 1st January, 1976, any non-ratable land becomes ratable and, at the date at which the land becomes ratable, no valuation of the land is entered in the council's valuation book, a determination shall be made of—

Valuations on land becoming ratable on or after 1st January, 1976.

- 15 (a) the unimproved capital value of the land; and
(b) if a rating or taxing authority so requests in writing or the council so decides, the assessed annual value of the land.

20 (2) If, on or after 1st January, 1976, any land has become ratable and, since the date on which that land became ratable, a valuation of the area or part of the area in which that land is situated has been made under section 8 (1) of this Schedule and that valuation did not include a valuation of that land, a further determination shall be made of—

- 25 (a) the unimproved capital value of that land; and
(b) if a rating or taxing authority in writing so requests or the council so decides, the assessed annual value of that land.

30 (3) Valuations made pursuant to this section shall be entered in the council's valuation book and shall, until the land concerned is included in a subsequent valuation which is used for rating

purposes,

Local Government (Amendment).

5 purposes, be deemed to be valuations made on the date as at which the valuations are being determined and have effect for the purpose of levying rates that are made and leviable on the basis of unimproved capital values of land or assessed annual values of land, as the case may be.

(k) by omitting from section 9 the words “, are of the same class of tenure,” wherever occurring; Sec. 9.
(Inclusive valuation.)

10 (l) (i) by omitting from section 10 (1) the words “are not of the same class of tenure, or”; Sec. 10.
(Separate valuations.)

(ii) by omitting from section 10 (2) the words “and of the same class of tenure”;

15 (iii) by omitting from section 10 (3) the word “Where” and by inserting instead the words “Except as provided in subsection (3A), where”;

(iv) by inserting after section 10 (3) the following subsections : —

20 (3A) Where a part of a parcel of land (being a parcel which has been valued) has been sold, conveyed or resumed and, since the sale, conveyance or resumption, a valuation under section 8 (1) of this Schedule has been made which included a valuation of the
25 parcel but which did not include separate valuations of that part and the part remaining after the sale, conveyance or resumption, a further valuation shall be made of each of those parts.

(3B)

Local Government (Amendment).

5 (3B) Valuations of a part of a parcel of land made pursuant to subsections (3) and (3A) shall, until a separate value for that part is included in a subsequent valuation which is used for rating and taxing purposes, be used by rating or taxing authorities as the basis of any rate or tax levied or leviable in respect of conveyance or resumption of that part to the exclusion of any other valuation.

(m) by inserting after section 10 the following sections :—

15 10A. (1) Where a valuation is made under this Schedule of any mixed development land, an apportionment factor shall be calculated in respect of that mixed development land.

20 (2) The apportionment factor with respect to any mixed development land referred to in subsection (1) shall be calculated by applying the following formula :—

$$a = \frac{b}{c} \times 100$$

where—

25 a = the apportionment factor expressed as a percentage;

b = the rental value of the part of the mixed development land that is non-residential;

30 c = the rental value of the mixed development land as a whole.

(3)

Local Government (Amendment).

5 (3) Where the rental value of any mixed
development land, or any part of any such land, is
determined for the purpose of subsection (2),
section 6A of this Schedule shall apply to that
determination in the same way as it would apply if
the unimproved capital value or the assessed annual
value of the land or part were then being determined
and as if the references in that section to
10 "unimproved capital value" and "assessed annual
value" were references to "rental value".

15 (4) An apportionment factor calculated
under this section in respect of any land shall be
noted in the council's valuation book and shown
in the notice of valuation relating to the land,
and an objection in accordance with this Schedule
may be made in respect of that apportionment factor
as if it were a valuation.

20 (5) The right under this Schedule to object
to a valuation in respect of any land includes a
right to object on the ground that an apportionment
factor has not been calculated in respect of the
land.

10B. (1) Subject to this section, for the purposes
of section 10A of this Schedule—

Interpreta-
tion for
purposes of
section
10A.

25 "mixed development land" means a parcel of land
occupied or used solely as the site of one
building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

30 "non-residential land" means—

- (a) a parcel of land that is not residential
land or mixed development land;

(b)

Local Government (Amendment).

- (b) a strata lot that is not residential land;
- 5 (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- 10 (d) a stratum separately valued under this Act that is not a stratum referred to in paragraph (g) of the definition of "residential land" in this subsection;

"residential land" means—

- (a) a parcel of land occupied or used solely as the site of one single dwelling;
- 15 (b) a parcel of land (not exceeding 2.5 hectares in area) occupied or used solely as the site of a single dwelling and for primary production;
- 20 (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;
- 25 (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;
- 30 (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

(f)

Local Government (Amendment).

5 (f) a strata lot designed and intended for use in conjunction with a strata lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or

10 (g) a stratum separately valued under this Schedule that is occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling.

15 (2) A parcel of land occupied or used as the site of a single building comprising one, or more than one, office is not mixed development land by reason only that it comprises (in addition) one, or more than one, flat, if the flat is, or the flats are, intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building.

20 (3) For the purposes of—

25 (a) the definition of “mixed development land” in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one building comprising one, or more than one, flat and one, or more than one office; and

30 (b) the definition of “residential land” in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

by

Local Government (Amendment).

by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

5

(4) The reference in this section to a parcel of land is a reference to a parcel of land required to be separately valued, or to land included in one valuation, pursuant to this Act.

10

(5) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily—

15

(a) for cultivation for the purpose of selling the produce of that cultivation;

(b) for the maintenance of animals or poultry for the purpose of selling those animals or poultry or their natural increase or bodily produce; or

20

(c) for the keeping of bees for the purpose of selling the honey produced by those bees.

(6) In this section—

25

"flat" means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

30

"inn" has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

"office" means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being

separately

Local Government (Amendment).

separately occupied or used, for any commercial, industrial or professional purpose;

5 "single dwelling" means a house occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a lot in a strata plan or a property commonly
10 known as a shop and dwelling;

"strata lot" means a lot as defined in section 5 (1) of the Strata Titles Act, 1973.

(n) by omitting section 12 (2) and by inserting instead the following subsections :—

Sec. 12.
(Mines—
unimproved
capital
value.)

15 (2) Where the unimproved capital value of a coal mine is required to be ascertained by valuation based on output, that value shall be a sum equal to 75 cents per tonne of the average annual output of coal from the mine during the 3 years preceding the
20 year in which the value is being determined or, if the mine has been worked for less than that period, during such part of that period as the mine has been worked.

25 (2A) Where the unimproved capital value of a shale mine is required to be ascertained by valuation based on output, that value shall be a sum equal to 25 cents per tonne of the average annual output of shale from the mine during the 3 years preceding the year in which the value is being determined or,
30 if the mine has been worked for less than that period, during such part of that period as the mine has been worked.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY

REPORT OF THE
COMMISSIONERS OF THE
LAND OFFICE

THE LAND OFFICE
OF THE
STATE OF ILLINOIS
HAS THE HONOR TO
ACKNOWLEDGE THE
RECEIPT OF THE
FOLLOWING REPORT

OF THE
COMMISSIONERS OF THE
LAND OFFICE

FOR THE YEAR
ENDING
MARCH 31, 1891

AND TO
CERTIFY THAT THE
SAME HAS BEEN
FILED FOR
RECORD IN THE
OFFICE OF THE
CLERK OF THE
SUPREME COURT
OF THE STATE OF
ILLINOIS

AT CHICAGO
THIS 10TH DAY OF
APRIL 1891

JOHN A. HARRIS
CLERK OF THE
SUPREME COURT

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 26, 1976.

An Act to confer additional powers on councils; and for this
and other purposes to amend the Local Government
Act, 1919. [Assented to, 1st April, 1976.]

BE

Local Government (Amendment).

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

Short title. **1.** This Act may be cited as the "Local Government (Amendment) Act, 1976".

Commence-ment. **2.** (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 13 (c) and (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the *Gazette*.

(3) Section 16 shall be deemed to have commenced on 1st January, 1976.

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

Amend-ment of Part III of Act No. 41, 1919.
Sec. 19.
 (Proposals for alteration of areas.)

4. Part III of the Principal Act is amended—

- (a) by omitting from section 19 (1) (b) the words "by fifty electors of any such area" and by inserting instead the words "by not less than 250 electors of any such area or, where any such area has fewer than 2,500 electors, by not less than one-tenth of the electors of that area";

(b)

Local Government (Amendment).

(b) by omitting from section 19 (1) (c) the words “by fifty electors of that part or by any number of electors not less than one-third of those enrolled in respect of land situated in that part; or” and by inserting instead the words “by not less than 250 electors of that part or, where that part has fewer than 2,500 electors, by not less than one-tenth of the electors of that part; or”;

(c) by omitting section 19 (3) (b) and by inserting instead the following paragraph :—

(b) by not less than 250 electors of any such area or, where any such area has fewer than 2,500 electors, by not less than one-tenth of the electors of that area; or;

(d) by omitting from section 19 (3) (c) the words “by fifty electors of that part, or by any number of electors not less than one-third of those enrolled in respect of lands situated in that part” and by inserting instead the words “by not less than 250 electors of that part or, where that part has fewer than 2,500 electors, by not less than one-tenth of the electors of that part”.

5. Part VII of the Principal Act is amended by omitting from section 160E (4) the words “held by the ratable person”.

Amend-
ment of
Part VII of
Act No. 41,
1919.

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

Local Government (Amendment).

Amend-
ment of
Part IX of
Act No. 41,
1919.

6. Part IX of the Principal Act is amended—

Sec. 243.
(Cost of
paving,
kerbing
and
guttering
footways.)

- (a) by inserting after section 243 (5) the following subsection :—

(6) A reference in this section to an owner of land includes a reference to a lessee of land leased in perpetuity from the Crown.

Sec. 244.
(Cost of
special
crossings.)

- (b) (i) by omitting section 244 (1) and by inserting instead the following subsection :—

(1) Where the council constructs or repairs a special crossing over a footway in a public road for the traffic of vehicles across the footway to or from any land, it may recover in any court of competent jurisdiction the cost of the construction or repairs as a debt from the owner of the land or, where the crossing has been constructed or repaired at the request of the occupier of the land, from that occupier.

- (ii) by inserting after section 244 (2) the following subsection :—

(3) The reference in this section to an owner of land includes a reference to a lessee of land leased in perpetuity from the Crown.

Local Government (Amendment).

(c) by omitting section 249 (cc) and by inserting instead the following paragraph :—

Sec. 249.
(Care, control and management of roads.)

(cc) provide, control and manage sites for the accommodation of vehicles in or near the road and charge a fee for the use of any such site.

7. Part X of the Principal Act is amended by inserting after section 298 (1) the following subsection :—

Amendment of Part X of Act No. 41, 1919.

(1A) The council may provide, control and manage kindergartens, nurseries, child-care centres, family day-care centres and establishments of a similar nature.

Sec. 298.
(Provision and management.)

8. Part XI of the Principal Act is amended—

Amendment of Part XI of Act No. 41, 1919.

(a) (i) by omitting from section 308 (2) the words “A building” and by inserting instead the words “Subject to subsection (5) and to section 308A, a building”;

Sec. 308.
(Building line.)

(ii) by omitting from section 308 (5) the words “Notwithstanding the foregoing provisions of this section a” and by inserting instead the word “A”;

(b)

Local Government (Amendment).

Sec. 308A.

(b) by inserting after section 308 the following section :—

Approval
for erection
of building
without
regard to
building
line.

308A. (1) An application may be made to the council by or on behalf of any person who is the owner of land that is affected by a building line fixed by section 308 (3) for approval for the erection on the land of a building without regard to the building line.

(2) The application shall—

(a) be in writing;

(b) contain or be accompanied by a plan showing—

(i) the floor plan and the front and side elevations of the proposed building;

(ii) the dimensions of the proposed building; and

(iii) the location of the proposed building in relation to the public road to which the building line relates; and

(c) be accompanied by the prescribed fee (if any).

(3)

Local Government (Amendment).

(3) Before considering the application, the council shall—

- (a) serve on any person who is the occupier of land the enjoyment of which, in the opinion of the council, might be detrimentally affected by the erection of the proposed building a notice giving him particulars of the application and inviting him, if he so wishes, to object to the application not later than such date as is specified in the notice, being a date at least 14 days after service of the notice; and
- (b) publish in a newspaper circulating in the district in which the land is situated a notice giving particulars of the application and inviting any person who claims to be the owner of land the enjoyment of which might be detrimentally affected by the erection of the proposed building to object to the application not later than such date as is specified in the notice.

(4) The date specified in a notice referred to in subsection (3) (b) shall be the same date as that specified in a notice referred to in subsection (3) (a).

(5) Any person on whom a notice has been served under subsection (3) (a), and any other person who claims that the enjoyment of land owned by him will be detrimentally affected if the proposed building is erected, may, not later than the date specified in a notice served or published under subsection (3), lodge with the council an objection to the application.

(6)

Local Government (Amendment).

(6) Every such objection shall be in writing and shall specify the grounds of objection.

(7) Any person who attends the office of the council during the ordinary business hours of that office after the making of the application, but before the date by which objections to the application are required to be lodged under subsection (5), shall be entitled, on making a request to do so and without payment of any fee, to inspect the plan contained in or accompanying the application.

(8) As soon as practicable after the date by which objections to the application are required to be lodged under subsection (5), the council shall consider the application and any objections that have been so lodged.

(9) If, after considering the application, and, where any objections have been lodged under subsection (5), those objections, the council is of the opinion that—

- (a) by reason of the terrain of the land to which the application relates or of other special circumstances, it is desirable to approve the application; and
- (b) the interests of the applicant outweigh the interests of the persons who lodged the objections,

the council shall approve the application, either unconditionally or subject to such conditions as it specifies in the approval, but if it is not of that opinion, it shall refuse the application.

(10) The council shall, as soon as practicable after approving or refusing the application, notify the applicant in writing of that approval or refusal.

(11)

Local Government (Amendment).

(11) At any time after approval of an application has been notified under subsection (10), the building shown in the plan contained in or accompanying the application may, subject to any conditions specified in the approval and to compliance with Division 4, be erected without regard to the building line.

(12) Division 4c does not apply to or in respect of any application made under this section or to or in respect of any decision of the council in relation to any such application.

(c) by inserting after section 312 (3) the following subsection :— Sec. 312.
(Application.)

(4) The reference in this section to an owner includes a reference to a lessee of land leased in perpetuity from the Crown.

(d) by omitting section 314 (1A) (c) and (d) and by inserting instead the following paragraphs :— Sec. 314.
(Duty of council.)

(c) the only departures from the standard prescribed in Schedule 7 and applicable in the particular case are that—

(i) the building is to occupy the whole of the allotment on which the building is to be erected or a greater proportion of the allotment than is prescribed by that standard; and

(ii) the external walls of the building are not to be set back as far as required by that standard; and

(d) the total floor plan area as defined in Schedule 7 is not to exceed one and one-half times the total area of the site as so defined; and

(da)

Local Government (Amendment).

- (da) if the council so requires, an area of open space for the common use of all occupants of the residential part of the building is to be provided either at ground level or in or above the part of the building that is used for residential purposes or partly at ground level and partly in or above the part of the building that is used for residential purposes; and

Amend-
ment of
Part XII of
Act No. 41,
1919.

9. Part XII of the Principal Act is amended—

Sec. 327AA.
(Land
included in
a current
plan not to
be disposed
of except
in lots or
portions
shown on
that plan.)

- (a) (i) by omitting paragraph (b) of the definition of "current plan" in section 327AA (1) and by inserting instead the following paragraph :—
- (b) a Crown plan (whether made before or after the commencement of the Local Government (Amendment) Act, 1970) showing lots or portions, but does not include—
- (i) a Crown plan which shows land specified in the plan as being proposed to be resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land unless it is a plan referred to in paragraph (g) of the definition of "plan of subdivision" in this subsection;
- (ii) a Crown plan which shows land specified in the plan as being leased or proposed to be leased for a period that, including any period of renewal, does not or will not exceed five years;
- (iii)

Local Government (Amendment).

- (iii) so much of a Crown plan as relates to land included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was prepared; or
- (iv) so much of a Crown plan as relates to land included in a subsequent Crown plan showing lots or portions;
- (ii) by inserting in section 327AA (2) after the words "option of renewal)" the words "or be mortgaged";
- (iii) by inserting in section 327AA (2) after the words "any disposition" the words "or mortgage";
- (iv) by inserting in section 327AA (4) (a) after the words "disposed of" the words "or mortgaged";
- (v) by inserting in section 327AA (4) (b) after the words "disposed of" the words "or mortgaged";
- (vi) by inserting in section 327AA (4) (c) after the words "the disposition" the words "or mortgaging";
- (vii) by inserting in section 327AA (4) (c) (i) after the words "disposes of" the words "or mortgages";
- (viii) by inserting in section 327AA (4) (c) (ii) after the words "dispose of" the words "or mortgage";
- (ix) by omitting from section 327AA (4) (c) (ii) the word "or" where secondly occurring;
- (x)

Local Government (Amendment).

(x) by inserting in section 327AA (4) (d) after the words "the disposition" the words "or mortgaging";

(xi) by omitting from section 327AA (4) (d) the words "Crown plan that is not a current plan." and by inserting instead the following words and paragraphs :—

Crown plan that is not a current plan;

(e) the disposition of land that is part of a lot or portion in a current plan where the part of the lot or portion is vested in a person in the capacity of executor, administrator or trustee and—

(i) no other part of the lot or portion is vested in him in that capacity and the disposition is or gives effect to a sale by him in the execution of his powers as executor, administrator or trustee or is made for the purpose of giving effect to the terms of a will or codicil or a deed of settlement or for the purpose of distributing the estate of a deceased intestate; or

(ii) the disposition gives effect to the terms of a will, codicil or deed of settlement executed before the registration of the current plan;

(f) the disposition of land that is part of a lot or portion in a current plan by a mortgagee exercising a power of sale under a mortgage which was executed before the date of assent to the Local

Government

Local Government (Amendment).

Government (Amendment) Act, 1976, where no other part of that lot or portion is subject to the mortgage; or

(g) the disposition of land that is part of a lot or portion in a current plan where the disposition—

(i) is necessary to give effect to an order, direction or judgment of a court of competent jurisdiction;

(ii) is or gives effect to a sale of land pursuant to a writ of execution;

(iii) is or gives effect to a sale of land pursuant to section 602;

(iv) is or gives effect to a sale of land pursuant to section 61 of the Mental Health Act, 1958; or

(v) is or gives effect to a sale of land pursuant to any power conferred by or under the Bankruptcy Act 1966 of the Parliament of the Commonwealth,

and the person making the disposition does not have power to dispose of any other part of the lot or portion.

- (b) (i) by omitting from section 340C (1) the words "by proclamation" and by inserting instead the words "by a notice";
- (ii) by omitting from section 340C (1) the words "such proclamation" and by inserting instead the words "that notice".

Sec. 340C.
(Vesting of certain land in councils by notice.)

Local Government (Amendment).

Amendment
of Part XIIA
of Act No.
41, 1919.

10. Part XIIA of the Principal Act is amended—

Sec. 342ZA.
(Objections
to residential
flat
buildings
and certain
other de-
velopment.)

- (a) by omitting from section 342ZA (2) the words “Conveyancing (Strata Titles) Act, 1961” and by inserting instead the words “Strata Titles Act, 1973”;
- (b) by omitting from section 342ZA (3) the word “or” where firstly occurring.

Amend-
ment of
Part XIII of
Act No. 41,
1919.

11. Part XIII of the Principal Act is amended—

Secs. 351A,
351B and
351C.

- (a) by inserting after section 351 the following sections :—

Parking
areas on
public
reserves.

351A. (1) The council may by resolution regulate and control—

- (a) the taking of vehicles, or vehicles of any class or description specified in the resolution, on to any public reserve under its care, conduct and control; and
- (b) the use of vehicles, or vehicles of any class or description so specified, within any such public reserve.

(2) In subsection (1)—

“use” includes parking;

“vehicles” includes vehicles other than motor vehicles.

Liability
of vehicle
owner for
certain
offences.

351B. (1) Where an offence against any ordinance made under section 367 (2) is committed in relation to any motor vehicle, the person who

at

Local Government (Amendment).

at the time of the commission of the offence was the owner of the vehicle shall, by virtue of this section, be guilty of an offence against the ordinance as if he were the actual offender, unless the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(2) Subsection (1) does not affect the liability of the actual offender, but, where a penalty has been imposed or recovered from any person in relation to any offence referred to in that subsection, no further penalty shall be imposed on or recovered in respect of the offence from any other person.

(3) In this section—

“owner”, in relation to a motor vehicle, includes—

- (a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;
- (b) the person in whose name the vehicle is registered except where that person has sold or otherwise disposed of the vehicle and has complied with the regulations under the Motor Traffic Act, 1909, applicable to him with respect to the sale or disposal; and
- (c) in the case of a vehicle to which a trader's plate has been affixed, the person to whom the trader's plate is issued;

“registered” means registered under the Motor Traffic Act, 1909;

“trader's

Local Government (Amendment).

"trader's plate" means a trader's plate issued under regulations made pursuant to the Motor Traffic Act, 1909.

Penalty
for certain
offences.

351C. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 351B is guilty of, an offence against an ordinance made under section 367 (2), the servant may serve a notice on the person to the effect that if that person does not desire to have the matter determined by a court, the person may pay to a servant of the council who is specified in the notice, within the period so specified, the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection (1)—

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

(b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 351B, may be served by addressing it to the owner without naming him or stating his address and leaving it on or attaching it to the vehicle.

(3) A person alleged to have committed, or to be guilty of, an offence to which subsection (1) applies has the right to decline to be dealt with under this section.

(4) A person who fails to pay the penalty within the period specified in the notice served on him under subsection (1), or within such extended period as may be allowed in any particular case, is deemed to have declined to be dealt with under this section.

(5)

Local Government (Amendment).

(5) Where the amount of penalty prescribed in respect of an alleged offence is paid pursuant to this section, no further proceedings shall be taken against any person in relation to that offence.

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

(7) The council may by resolution—

(a) fix the amount of penalty payable under this section for any offence referred to in subsection (1), not exceeding the maximum penalty for the offence imposed by or under this Act; and

(b) for the purposes of this section, fix the amount of penalty payable—

(i) for different offences or classes of offences;

(ii) for offences or classes of offences having regard to the circumstances in which, or the manner in which, the offences are committed; or

(iii) for offences or classes of offences committed on different public reserves.

(8) This section is in addition to any other section of this or any other Act relating to proceedings which may be taken in respect of offences.

(b) by inserting at the end of section 367 the following subsection :—

Sec. 367.
(Ordinances.)

(2) Ordinances may be made for carrying sections 351A, 351B and 351C into effect.

Local Government (Amendment).

Amendment
of Part
XVII of Act
No. 41,
1919.
Sec. 419A.

Limitation
on recovery
of charges
for gas or
electricity
supplied.

12. Part XVII of the Principal Act is amended by inserting after section 419 the following section :—

419A. (1) Subject to subsection (2), where—

(a) the council has, whether before or after the date of assent to the Local Government (Amendment) Act, 1976, supplied a quantity of gas or electricity to any person; and

(b) by reason of an error by the council or any servant of the council—

(i) no account showing the amount payable with respect to the quantity so supplied is rendered to that person within 2 years after the date on which such an account would have been rendered to him but for the error; or

(ii) where an account with respect to the quantity so supplied has been rendered to him within that period, the amount shown in the account as being payable for the quantity stated to have been supplied (whether the quantity so stated was the quantity actually supplied or not) was less than that which would have been payable but for the error and no further account is rendered to him within that period showing the additional amount that is payable with respect to the quantity so supplied,

no action is, after the date of assent to the Local Government (Amendment) Act, 1976, maintainable by the council for the recovery of that amount or additional amount, as the case may be.

(2)

Local Government (Amendment).

(2) For the purpose of subsection (1), the expression "error" includes—

(a) an error of omission or calculation, whether in relation to the quantity of gas or electricity supplied or the amount payable for that quantity; and

(b) an error of an administrative or clerical nature,

but does not include—

(c) an error that was induced by fraud committed by or with the connivance of the person to whom the quantity of gas or electricity was supplied; or

(d) an error that is attributable to the fact that—

(i) the quantity of gas or electricity so supplied was consumed without having passed through a meter provided by the council for the purpose of measuring the consumption of gas or of electricity, as the case may be; or

(ii) where the quantity of gas or electricity so supplied has passed through a meter so provided, the meter has, whether because of mechanical fault, incapacity of the meter or other cause, failed to record that quantity or failed to record that quantity correctly.

Local Government (Amendment).

Amend-
ment of
Part XXIII
of Act No.
41, 1919.

Secs. 500B
and 500C.

Loans for
sewer con-
nections.

13. Part XXIII of the Principal Act is amended—

(a) by inserting after section 500A the following sections :—

500B. (1) Subject to this section, the council may, on the application of any person who is the owner of ratable land within the council's area, lend money to that person for the purpose of assisting him in meeting the cost of the work involved in connecting premises on that land with a sewer of a statutory body representing the Crown.

(2) A loan under subsection (1) may be made at such rate of interest, and subject to such conditions and provisions, as the council thinks fit to impose, and in particular any such provisions may include a provision requiring the applicant to pay to the council by equal instalments, and within such period as may be prescribed for the purpose of this subsection, an amount equal to the amount of the loan together with the total amount of interest due in respect of the loan.

(3) The provisions of this Act with respect to the charge of a rate on land in respect of which it is levied shall apply to the amount of a loan made under subsection (1) and of any interest due in respect of the loan as if the amount were a rate so charged and as if the land with respect to which the loan was made were land in respect of which that rate had been levied.

500C. (1) Subject to this section, the council may, on the application of a person who is the owner of ratable land within the council's area, lend money to that person for the purpose of assisting him in meeting the cost of the work involved in installing on that land any water storage

tank

Loans for
the pro-
vision of
water
storage
facilities.

Local Government (Amendment).

tank or other water storage facility for use in connection with any residential premises on that land.

(2) A loan under subsection (1) may be made at such rate of interest, and subject to such conditions and provisions, as the council thinks fit to impose, and in particular any such provisions may include a provision requiring the applicant to pay to the council by equal instalments, and within such period as may be prescribed for the purpose of this subsection, an amount equal to the amount of the loan together with the total amount of interest due in respect of the loan.

(3) The provisions of this Act with respect to the charge of a rate on land in respect of which it is levied shall apply to the amount of a loan made under subsection (1) and of any interest due in respect of the loan as if the amount were a rate so charged and as if the land with respect to which the loan was made were land in respect of which that rate had been levied.

(b) by omitting from section 504 the words "one thousand dollars" wherever occurring and by inserting instead the matter "\$2,000";

Sec. 504.
(General fund may be applied to any purpose.)

(c) by inserting after section 510B the following section :—

Sec. 510c.

510c. (1) In this section—

"owner", in relation to an article, includes a person who is the joint or part owner of the article and a person to whom the article has been let under a hire-purchase agreement, a hiring agreement or a leasing agreement;

Power to impound prescribed articles left unattended or abandoned in or on council property.

"prescribed

Local Government (Amendment).

“prescribed article” means any chattel or other thing of a description or class prescribed for the purposes of this section.

(2) Any prescribed article left unattended or abandoned in or on any public place, public reserve, free parking area or other premises or land vested in or under the care, control and management of the council may be impounded by a proper servant of the council and removed to a place set apart by the council for the storage of articles impounded under this subsection.

(3) An application for the release of an article impounded under subsection (2) may be made to the servant of the council in charge of the place where the article is stored by or on behalf of any person claiming to be the owner of the article at any time before the article is sold or disposed of under this section, and, on the making of such an application, the article shall be released to the applicant if—

(a) that servant of the council is satisfied that the applicant is the owner of the article or, as the case may be, that the person on whose behalf the application is made is the owner of the article and that the applicant has that owner's authority to make the application on his behalf; and

(b) the applicant—

(i) pays the charge (if any) prescribed for the storage of the article; and

(ii) signs a receipt for the article on a form supplied to him by that servant of the council.

(4) An article impounded under subsection (2) which, in the opinion of the council, has no monetary value may forthwith be disposed of in such manner as the council thinks fit.

(5)

Local Government (Amendment).

(5) Where an article impounded under subsection (2) has, in the opinion of the council, a monetary value, the council shall—

- (a) if it has particulars of a person who is apparently the owner of the article sufficient to identify and locate him, serve on that person a notice to the effect that the article is in the possession of the council and that application for the release of the article may be made in accordance with subsection (3); or
- (b) if it does not have those particulars, cause to be published in a newspaper circulating in the district where the article was impounded a notice to the effect that the article is in the possession of the council and that application for the release of the article may be made in accordance with subsection (3).

(6) A notice served pursuant to subsection (5) (a) or published pursuant to subsection (5) (b) shall be in or to the effect of the prescribed form.

(7) If an article in respect of which a notice has been served or published in accordance with subsection (5) is not, within the prescribed period after that service or publication, released to a person pursuant to an application made under subsection (3), the council may cause the article to be offered for sale by public auction.

(8)

Local Government (Amendment).

(8) If an article offered for sale in accordance with subsection (7) is sold, the following provisions shall apply :—

- (a) the purchaser of the article shall obtain the ownership of the article freed and discharged from any right, interest, charge, trust or obligation to which the article was subject immediately before the sale;
- (b) after deducting the expenses of the sale and an amount equal to the charge (if any) prescribed for the storage of the article, any balance of the proceeds of sale shall be held by the council on trust for the person who, immediately before the sale, was the owner of the article;
- (c) on application being made to the council at any time within six years after the date of the sale, the council may, if it is satisfied that the applicant was the owner of the article immediately before the sale, pay to him the balance (if any) of the proceeds of sale, and the receipt of that applicant shall be an effectual discharge to the council for that balance; and
- (d) if no application is made under paragraph (c) within the period mentioned in that paragraph, the council may transfer the balance (if any) of the proceeds of sale to such fund as it thinks fit and thereupon the amount of that balance shall become the property of the council freed and discharged from the trust mentioned in paragraph (b).

(9) An article offered for sale in accordance with subsection (7) that is not sold may be disposed of in such manner as the council thinks fit.

Local Government (Amendment).

(10) Where an article impounded under subsection (2) is sold or otherwise disposed of in accordance with this section and the council, in effecting that sale or disposal, has acted in good faith and with reasonable care, no person claiming to have been the owner of the article immediately before the sale or disposal shall, except in relation to the balance of the proceeds of sale (if any) held by the council in accordance with subsection (8) (b), have any claim in respect of the article or any right of action against the council or any other person, whether in conversion or otherwise, in relation to the sale or disposal of the article.

- (d) by omitting from section 513 (1) (t) the word "Act." and by inserting instead the following word and paragraph :—

Sec. 513.
(Ordinances.)

Act;

- (u) prescribing all matters or things which may be necessary for carrying into effect section 510c.

- (e) by omitting section 514 and by inserting instead the following section :—

514. The council may be a member of—

- (a) the Local Government Association of New South Wales;
- (b) the Shires Association of New South Wales;
- (c) The Local Government Electricity Association of New South Wales;
- (d) The Australian Gas Association; or
- (e) any other association or organisation prescribed for the purpose of this section,

Membership of, and payment of subscriptions to, certain associations and organisations.

and

Local Government (Amendment).

and may pay subscriptions to any such association or organisation, or to any council, committee or section of, or in connection with any meeting, conference or convention held by, any such association or organisation.

Amendment
of Part XXV
of Act No.
41, 1919.

Sec. 536A.
(Vesting.)

14. Part XXV of the Principal Act is amended—

- (a) by omitting from section 536A (1) the words “charges, rates, rights of way, or easements whatsoever.” and by inserting instead the words “charges and rates and, subject to subsection (1A), from all easements.”;
- (b) by inserting after section 536A (1) the following subsections :—

(1A) There may be excepted from the vesting of any land to which any such notice and description relate—

- (a) any easement specified in the notice and to which the land was subject immediately before the vesting; and
- (b) any easement so specified that is appurtenant to any such easement.

(1B) Where, pursuant to subsection (1A), an easement is excepted from a vesting of land and, immediately before that vesting, there was annexed to the easement the benefit of a restriction as to user, that restriction shall, unless otherwise specified in the notice by which the vesting is effected, continue to have effect as if the vesting had not taken place.

Local Government (Amendment).

15. Part XXX of the Principal Act is amended by omitting from section 628 (3) (b) the word "ordinance." and by inserting instead the following words and paragraph :—

Amendment
of Part XXX
of Act No.
41, 1919.

ordinance; and

Sec. 628.
(Ratable
persons,
owners,
and
occupiers.)

- (c) in the case of the service of a rate notice, the service may be effected by delivering the notice to the premises at which the person to be served lives or carries on business and depositing it in a box or receptacle at, on or in the proximity of those premises that is provided, used or designed for the reception of letters addressed to that person.

16. Schedule 3 to the Principal Act is amended—

Amendment
of Schedule
3 to Act
No. 41,
1919.

- (a) by inserting in section 1A after the definition of "Site improvements" the following definition :—

Sec. 1A.
(Defini-
tions.)

"Stratum" has the meaning ascribed to that expression by section 4 (1) of the Valuation of Land Act, 1916.

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

Sec. 2.

2. (1) This section applies to land other than a stratum and shall be read subject to the special provisions of this Schedule relating to mines.

Unimproved
capital value
of land
other than
stratum.

(2) Subject to this section, the unimproved capital value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require,

assuming

Local Government (Amendment).

assuming that the improvements, if any, on or appertaining to the land, and made or acquired by the owner or any of his predecessors in title, had not been made.

(3) Notwithstanding anything in subsection (2), in determining the unimproved capital value of any land it shall be assumed that—

(a) the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used—

(i) in the case of a determination of any such value before 1st January, 1976—at the date to which the valuation relates; or

(ii) in the case of a determination of any such value on or after that date—at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

(b) such improvements as may be required in order to enable the land to continue to be so used may be continued or made on the land,

but nothing in this subsection prevents regard from being had, in determining that value, to any other purpose for which the land may be used on the assumption that the improvements, if any, referred to in subsection (2) had not been made.

Local Government (Amendment).

(4) The references in subsections (2) and (3) to improvements do not include site improvements.

(5) Subject to subsections (6) to (13), for the purposes of this section there shall, in determining the unimproved capital value of any land, be allowed a reasonable deduction for profitable expenditure by the owner, occupier or lessee of the land in respect of—

- (a) the effective site improvements, if any, on or appertaining to the land; and
- (b) the visible and effective improvements, if any, which, although not on the land, have been constructed for its drainage, for its protection from inundation or otherwise for its more beneficial use.

(6) The amount of any deduction allowed under subsection (5) for profitable expenditure shall not—

- (a) where the value is determined before 1st January, 1976, exceed the amount that the improvements would have cost if they had been made at the date of the determination; or
- (b) where the value is determined on or after 1st January, 1976, exceed the amount that the improvements would have cost if they had been made at the date as at which the value is determined.

(7)

Local Government (Amendment).

(7) A deduction allowed under subsection (5) for profitable expenditure in respect of effective site improvements on or appertaining to any land shall cease to be allowable—

(a) in the case of expenditure incurred by the owner of the land—

(i) on the sale or resumption of the land; or

(ii) on the expiration of 15 years after the expenditure was incurred,

whichever first occurs; or

(b) in the case of expenditure incurred by the occupier or lessee (if any) of the land—

(i) on the transfer, surrender or expiration of the occupancy or lease; or

(ii) on the expiration of 15 years after the expenditure was incurred,

whichever first occurs.

(8) Where land has been sold or leased by the Crown, a deduction under subsection (5) shall not be allowed where the expenditure was incurred by the Crown except to the extent to which the Crown has been recouped in respect of that expenditure by the purchaser or lessee, otherwise than by payment of rent, rates or taxes.

(9)

Local Government (Amendment).

(9) Where the unimproved capital value of any land is determined on or after 1st January, 1976, the amount of any deduction allowed under subsection (5) shall be calculated on the assumption that—

- (a) the amount of the deduction is being calculated at the date as at which the unimproved capital value is being determined; and
- (b) any improvements referred to in subsection (5) in existence at the relevant date (as defined in section 6A (6) of this Schedule) were in existence at the date as at which that value is being determined.

(10) Where—

- (a) the unimproved capital value of any land is determined as at a date on or after 1st January, 1976; and
- (b) the occupier of the land is one of a number of occupiers authorised under Division 4 of Part II of the Water Act, 1912, to construct and use a joint water supply scheme,

the reference in subsection (5) to profitable expenditure by an owner, occupier or lessee of land shall, in respect of that joint water supply scheme, be deemed to include that part of the profitable expenditure that bears the same proportion to the total profitable expenditure incurred in carrying out those works as the amount contributed by that occupier bears to the total cost of the works.

(11) Subject to subsection (12), on and after 1st January, 1976, a deduction in relation to a joint water supply scheme may, in respect of any land referred to in subsection (10), be ascertained

at

Local Government (Amendment).

at any time before the next determination of the unimproved capital value of that land, and subsections (6), (7) and (8) and subsections (14) and (15) shall apply in respect of that deduction as if it were a deduction to which subsection (5) relates.

(12) The deduction referred to in subsection (11) shall—

(a) be ascertained only in respect of such of the improvements referred to in subsection (5) as were in existence as at the date at which the last determination of the unimproved capital value of the land was made; and

(b) be ascertained on the assumption that the deduction is being calculated as at that date.

(13) In levying rates on the basis of the unimproved capital value of land to which this Schedule relates any deduction allowed under subsection (5) shall be in addition to any deduction or reduction allowed or required to be made under this or any other Act.

(14) A deduction allowed under subsection (5) shall be noted separately in the council's valuation book and in the notice of valuation, and an objection may be made in respect of that deduction in accordance with this Schedule as if the deduction were a valuation.

(15) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that a deduction has not been allowed under subsection (5).

(c)

Local Government (Amendment).

- (c) by omitting section 2A (1) and (2) and by inserting instead the following subsections :—
- Sec. 2A.
(Unimproved capital value of strata.)

(1) This section applies to land that is a stratum, and shall be read subject to the special provisions of this Schedule relating to mines.

(1A) The unimproved capital value of a stratum is the capital sum which the fee-simple of the stratum might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require assuming—

- (a) that the improvements, if any, within the stratum and made or acquired by the owner or any of his predecessors in title had not been made except that where the stratum is wholly or partly in an excavation it shall be assumed that the excavation of the stratum had been made;
- (b) that means of access to the stratum may be used, and may continue to be used, as they were being used—
 - (i) in the case of a determination of any such value before 1st January, 1976—at the date to which the valuation relates; or
 - (ii) in the case of a determination of any such value on or after that date—at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

Local Government (Amendment).

- (c) that all land outside the stratum, including land of which the stratum forms part, is in the state and condition existing at the date referred to in paragraph (b), and in particular, without limiting the generality of this assumption, that, where the stratum consists partly of a building, structure or work or is a portion of a building, structure or work, that building, structure or work, to the extent that it is outside the stratum, had been constructed or, as the case may be, performed.

(1B) Notwithstanding anything in subsection (1A), in determining the unimproved capital value of a stratum it shall be assumed that—

- (a) the stratum may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used—
- (i) in the case of a determination of any such value before 1st January, 1976—
—at the date to which the valuation relates; or
 - (ii) in the case of a determination of any such value on or after that date—
at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

Local Government (Amendment).

- (b) such improvements as may be required in order to enable the stratum to continue to be so used may be continued or made in the stratum,

but nothing in this subsection prevents regard being had, in determining that value, to any other purpose for which the stratum may be used on the assumptions set out in subsection (1A).

(1C) Subject to subsection (1D), for the purpose of this section there shall, in determining the unimproved capital value of any stratum, be allowed a reasonable deduction for profitable expenditure made by the owner or occupier of the stratum in respect of visible and effective improvements, if any, which, although not in the stratum, have been constructed exclusively for the benefit of the stratum or the improvements in it.

(1D) Where the unimproved capital value of any stratum is determined on or after 1st January, 1976, the amount of any deduction allowed under subsection (1C) shall be calculated on the assumption that—

- (a) the amount of the deduction is being calculated at the date as at which the unimproved capital value is being determined; and
- (b) any improvements referred to in subsection (1C) in existence at the relevant date (as defined in section 6A (6) of this Schedule) were in existence at the date as at which that value is being determined.

Local Government (Amendment).

(1E) In levying rates on the basis of the unimproved capital value of a stratum any deduction allowed under subsection (1C) shall be in addition to any deduction or reduction allowed or required to be made under this or any other Act.

(2) Any deduction allowed under subsection (1C) shall be noted separately in the council's valuation book and in the notice of valuation, and an objection may be made in respect of that deduction in accordance with this Schedule as if the deduction were a valuation.

(2A) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that a deduction has not been allowed under subsection (1C).

Sec. 2B.
(Rates to be levied on unimproved capital value less deductions.)

- (d) by inserting in section 2B after the word "Schedule" the words "and the amount of any deduction allowed or required to be made under any Act when levying rates on the basis of the unimproved capital value of the land";

Sec. 4.
(Assessed annual value.)

- (e) by omitting section 4 (1) and by inserting instead the following subsection :—

(1) The assessed annual value of land other than a stratum is—

- (a) nine-tenths of the fair average annual value of the land, with improvements, if any, on the land; or

- (b) five per centum—

- (i) of the improved capital value of the land in the case of a value determined before 1st January, 1976; or

(ii)

Local Government (Amendment).

- (ii) of the unimproved capital value of the land in the case of a value determined on or after 1st January, 1976,

whichever is the greater.

- (f) by inserting after section 4 the following section :— **Sec. 4A.**

4A. The assessed annual value of a stratum is— **Assessed annual value of strata.**

- (a) nine-tenths of the fair average annual value of the stratum, with the improvements, if any, in the stratum; or

- (b) five per centum—

- (i) of the improved capital value of the stratum in the case of a value determined before 1st January, 1976; or

- (ii) of the unimproved value of the stratum in the case of a value determined on or after 1st January, 1976,

whichever is the greater

- (g) by omitting section 6 (2) and (3) and by inserting **Sec. 6.** instead the following subsections :— **(Compulsory and optional valuations.)**

(2) There shall be a determination of the improved capital value of all ratable land within a municipality, except that on and after 1st January, 1976, such a determination shall be made only if the council of the municipality so decides.

Local Government (Amendment).

(3) There shall be a determination of the assessed annual value of all ratable land in the whole or any part of a municipality or shire—

- (a) whenever such a determination is required in respect of that land for the purposes of this or any other Act; or
- (b) whenever the council of the municipality or shire is requested in writing by a rating or taxing authority to make such a determination in respect of that land,

but in all other cases such a determination shall be made only if the council so decides.

(3A) The operation of section 8A of this Schedule is not affected by any valuation carried out under this section.

Sec. 6A.

(h) by inserting after section 6 the following section :—

Date at which certain values are to be determined.

6A. (1) Subject to this section, where the unimproved capital value or the assessed annual value of any land is determined on or after 1st January, 1976, the value determined shall—

- (a) if part of a valuation made pursuant to section 8 (1) of this Schedule commenced on or after 1st January, 1976, be the unimproved capital value or the assessed annual value, as the case may be, of the land as at the first day of January in the year in which that valuation commenced ; or
- (b) if not part of such a valuation, be the unimproved capital value or the assessed annual value, as the case may be, of the land as at the first day of January in the year in which the preceding valuation under

section

Local Government (Amendment).

section 8 (1) of this Schedule for the area or part of the area in which the land is situated—

- (i) in the case of a valuation made pursuant to section 8 (2) of this Schedule (not being a valuation made pursuant to section 10 (3) of this Schedule)—commenced;
- (ii) in the case of a valuation made pursuant to section 8A (1) of this Schedule—commenced before the date on which the land concerned became ratable;
- (iii) in the case of a valuation made pursuant to section 8A (2) of this Schedule—commenced;
- (iv) in the case of a valuation made pursuant to section 10 (3) of this Schedule—commenced before the date on which the land concerned was sold, conveyed or resumed, as the case may be; or
- (v) in the case of a valuation made pursuant to section 10 (3A) of this Schedule—commenced.

(2) In the application of subsection (1), in determining the unimproved capital value or the assessed annual value of land (not being a value determined pursuant to section 8A (2) or 10 (3A) of this Schedule), it shall be assumed—

- (a) in the case of land (other than a stratum) that—
 - (i) the physical condition of the land and of any other land: and

(ii)

Local Government (Amendment).

(ii) the manner in which any other land may be used; and

(b) in the case of a stratum, that—

(i) the physical condition of the stratum; and

(ii) the manner in which land outside the stratum (including the land of which the stratum forms part) may be used,

were the same on the date as at which the value is being determined as they are or were on the relevant date.

(3) In the application of subsection (1), in determining the assessed annual value of a stratum (other than a valuation made pursuant to section 8A (2) of this Schedule), it shall be assumed that the physical condition of any land outside the stratum (including the land of which the stratum forms part) was the same on the date as at which the value is being determined as it is or was on the relevant date.

(4) A certificate purporting to be signed by the clerk certifying that—

(a) a valuation is or is not part of a valuation made pursuant to section 8 (1) of this Schedule;

(b) a valuation made pursuant to section 8 (1) of this Schedule commenced on a date specified in the certificate; or

(c)

Local Government (Amendment).

(c) the last valuation made pursuant to section 8 (1) of this Schedule in respect of an area or part of an area specified in the certificate before the date on which the certificate is given commenced on a date so specified, shall be admissible in all proceedings before any court or tribunal as evidence of that fact.

(5) This section does not apply to a valuation of land made pursuant to section 8 (3) of this Schedule.

(6) In this section "relevant date" means—

- (a) in the case of a valuation of any land that is part of a valuation made pursuant to section 8 (1) or (2) of this Schedule (not being a valuation made pursuant to section 10 (3) of this Schedule), the date on which the valuation is made;
- (b) in the case of a valuation of land made pursuant to section 8A (1) of this Schedule, the date on which the land became ratable;
or
- (c) in the case of a valuation of land made pursuant to section 10 (3) of this Schedule, the date on which the land was sold, conveyed or resumed, as the case may be.

- (i) by omitting section 8 (3) and by inserting instead the following subsections :—

Sec. 8.
(Valuation
periods.)

(3) Where any non-ratable land has become ratable before 1st January, 1976, that land shall be valued as at the date on which it becomes ratable, whether or not the valuation is made before or on or after that date.

(4)

Local Government (Amendment).

(4) A valuation made pursuant to subsection (3) shall be entered in the council's valuation book and shall have effect for rating purposes as if it had been made and entered, and come into force, on the date as at which it is deemed to have been made.

Sec. 8A.

(j) by inserting after section 8 the following section :—

Valuations
on land
becoming
ratable on
or after 1st
January,
1976.

8A. (1) Where on or after 1st January, 1976, any non-ratable land becomes ratable and, at the date at which the land becomes ratable, no valuation of the land is entered in the council's valuation book, a determination shall be made of—

- (a) the unimproved capital value of the land;
and
- (b) if a rating or taxing authority so requests in writing or the council so decides, the assessed annual value of the land.

(2) If, on or after 1st January, 1976, any land has become ratable and, since the date on which that land became ratable, a valuation of the area or part of the area in which that land is situated has been made under section 8 (1) of this Schedule and that valuation did not include a valuation of that land, a further determination shall be made of—

- (a) the unimproved capital value of that land;
and
- (b) if a rating or taxing authority in writing so requests or the council so decides, the assessed annual value of that land.

(3) Valuations made pursuant to this section shall be entered in the council's valuation book and shall, until the land concerned is included in a subsequent valuation which is used for rating

purposes,

Local Government (Amendment).

purposes, be deemed to be valuations made on the date as at which the valuations are being determined and have effect for the purpose of levying rates that are made and leviable on the basis of unimproved capital values of land or assessed annual values of land, as the case may be.

- (k) by omitting from section 9 the words “, are of the same class of tenure,” wherever occurring; Sec. 9.
(Inclusive valuation.)

- (l) (i) by omitting from section 10 (1) the words “are not of the same class of tenure, or”; Sec. 10.
(Separate valuations.)

- (ii) by omitting from section 10 (2) the words “and of the same class of tenure”;

- (iii) by omitting from section 10 (3) the word “Where” and by inserting instead the words “Except as provided in subsection (3A), where”;

- (iv) by inserting after section 10 (3) the following subsections : —

(3A) Where a part of a parcel of land (being a parcel which has been valued) has been sold, conveyed or resumed and, since the sale, conveyance or resumption, a valuation under section 8 (1) of this Schedule has been made which included a valuation of the parcel but which did not include separate valuations of that part and the part remaining after the sale, conveyance or resumption, a further valuation shall be made of each of those parts.

(3B)

Local Government (Amendment).

(3B) Valuations of a part of a parcel of land made pursuant to subsections (3) and (3A) shall, until a separate value for that part is included in a subsequent valuation which is used for rating and taxing purposes, be used by rating or taxing authorities as the basis of any rate or tax levied or leviable in respect of any rating or taxing year following the sale, conveyance or resumption of that part to the exclusion of any other valuation.

**Secs. 10A
and 10B.**

(m) by inserting after section 10 the following sections :—

Apportion-
ment factor
to be
calculated in
respect of
mixed
development
land.

10A. (1) Where a valuation is made under this Schedule of any mixed development land, an apportionment factor shall be calculated in respect of that mixed development land.

(2) The apportionment factor with respect to any mixed development land referred to in subsection (1) shall be calculated by applying the following formula :—

$$a = \frac{b}{c} \times 100$$

where—

a = the apportionment factor expressed as a percentage;

b = the rental value of the part of the mixed development land that is non-residential;

c = the rental value of the mixed development land as a whole.

(3)

Local Government (Amendment).

(3) Where the rental value of any mixed development land, or any part of any such land, is determined for the purpose of subsection (2), section 6A of this Schedule shall apply to that determination in the same way as it would apply if the unimproved capital value or the assessed annual value of the land or part were then being determined and as if the references in that section to “unimproved capital value” and “assessed annual value” were references to “rental value”.

(4) An apportionment factor calculated under this section in respect of any land shall be noted in the council’s valuation book and shown in the notice of valuation relating to the land, and an objection in accordance with this Schedule may be made in respect of that apportionment factor as if it were a valuation.

(5) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that an apportionment factor has not been calculated in respect of the land.

10B. (1) Subject to this section, for the purposes of section 10A of this Schedule—

Interpretation for purposes of section 10A.

“mixed development land” means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

“non-residential land” means—

- (a) a parcel of land that is not residential land or mixed development land;

(b)

Local Government (Amendment).

- (b) a strata lot that is not residential land;
- (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- (d) a stratum separately valued under this Act that is not a stratum referred to in paragraph (g) of the definition of "residential land" in this subsection;

"residential land" means—

- (a) a parcel of land occupied or used solely as the site of one single dwelling;
- (b) a parcel of land (not exceeding 2.5 hectares in area) occupied or used solely as the site of a single dwelling and for primary production;
- (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;
- (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;
- (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

(f)

(f)

Local Government (Amendment).

(f) a strata lot designed and intended for use in conjunction with a strata lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or

(g) a stratum separately valued under this Schedule that is occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling.

(2) A parcel of land occupied or used as the site of a single building comprising one, or more than one, office is not mixed development land by reason only that it comprises (in addition) one, or more than one, flat, if the flat is, or the flats are, intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building.

(3) For the purposes of—

(a) the definition of “mixed development land” in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one building comprising one, or more than one, flat and one, or more than one office; and

(b) the definition of “residential land” in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

by

Local Government (Amendment).

by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

(4) The reference in this section to a parcel of land is a reference to a parcel of land required to be separately valued, or to land included in one valuation, pursuant to this Act.

(5) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily—

- (a) for cultivation for the purpose of selling the produce of that cultivation;
- (b) for the maintenance of animals or poultry for the purpose of selling those animals or poultry or their natural increase or bodily produce; or
- (c) for the keeping of bees for the purpose of selling the honey produced by those bees.

(6) In this section—

"flat" means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

"inn" has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

"office" means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being

separately

Local Government (Amendment).

separately occupied or used, for any commercial, industrial or professional purpose;

“single dwelling” means a house occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a lot in a strata plan or a property commonly known as a shop and dwelling;

“strata lot” means a lot as defined in section 5 (1) of the Strata Titles Act, 1973.

- (n) by omitting section 12 (2) and by inserting instead the following subsections :—

Sec. 12.
(Mines—
unimproved
capital
value.)

(2) Where the unimproved capital value of a coal mine is required to be ascertained by valuation based on output, that value shall be a sum equal to 75 cents per tonne of the average annual output of coal from the mine during the 3 years preceding the year in which the value is being determined or, if the mine has been worked for less than that period, during such part of that period as the mine has been worked.

(2A) Where the unimproved capital value of a shale mine is required to be ascertained by valuation based on output, that value shall be a sum equal to 25 cents per tonne of the average annual output of shale from the mine during the 3 years preceding the year in which the value is being determined or, if the mine has been worked for less than that period, during such part of that period as the mine has been worked.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1976

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.

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

*Legislative Assembly Chamber,
Sydney, 16 March, 1976.*

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 26, 1976.

An Act to confer additional powers on councils; and for this
and other purposes to amend the Local Government
Act, 1919. [Assented to, 1st April, 1976.]

BE

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

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Local Government (Amendment).

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

Short title. 1. This Act may be cited as the "Local Government (Amendment) Act, 1976".

**Commence-
ment.** 2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 13 (c) and (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the *Gazette*.

(3) Section 16 shall be deemed to have commenced on 1st January, 1976.

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

**Amend-
ment of
Part III of
Act No. 41,
1919.
Sec. 19.
(Proposals
for altera-
tion of
areas.)**

4. Part III of the Principal Act is amended—

(a) by omitting from section 19 (1) (b) the words "by fifty electors of any such area" and by inserting instead the words "by not less than 250 electors of any such area or, where any such area has fewer than 2,500 electors, by not less than one-tenth of the electors of that area";

(b)

Local Government (Amendment).

(b) by omitting from section 19 (1) (c) the words "by fifty electors of that part or by any number of electors not less than one-third of those enrolled in respect of land situated in that part; or" and by inserting instead the words "by not less than 250 electors of that part or, where that part has fewer than 2,500 electors, by not less than one-tenth of the electors of that part; or";

(c) by omitting section 19 (3) (b) and by inserting instead the following paragraph :—

(b) by not less than 250 electors of any such area or, where any such area has fewer than 2,500 electors, by not less than one-tenth of the electors of that area; or;

(d) by omitting from section 19 (3) (c) the words "by fifty electors of that part, or by any number of electors not less than one-third of those enrolled in respect of lands situated in that part" and by inserting instead the words "by not less than 250 electors of that part or, where that part has fewer than 2,500 electors, by not less than one-tenth of the electors of that part".

5. Part VII of the Principal Act is amended by omitting from section 160E (4) the words "held by the ratable person".

Amend-
ment of
Part VII of
Act No. 41,
1919.
Sec. 160E.
(Rating of
certain
classes of
lease
from the
Crown.)

Local Government (Amendment).

Amend-
ment of
Part IX of
Act No. 41,
1919.

6. Part IX of the Principal Act is amended—

Sec. 243.
(Cost of
paving,
kerbing
and
guttering
footways.)

- (a) by inserting after section 243 (5) the following subsection :—

(6) A reference in this section to an owner of land includes a reference to a lessee of land leased in perpetuity from the Crown.

Sec. 244.
(Cost of
special
crossings.)

- (b) (i) by omitting section 244 (1) and by inserting instead the following subsection :—

(1) Where the council constructs or repairs a special crossing over a footway in a public road for the traffic of vehicles across the footway to or from any land, it may recover in any court of competent jurisdiction the cost of the construction or repairs as a debt from the owner of the land or, where the crossing has been constructed or repaired at the request of the occupier of the land, from that occupier.

- (ii) by inserting after section 244 (2) the following subsection :—

(3) The reference in this section to an owner of land includes a reference to a lessee of land leased in perpetuity from the Crown.

(c)

Local Government (Amendment).

- (c) by omitting section 249 (cc) and by inserting instead the following paragraph :—

Sec. 249.
(Care, control and management of roads.)

- (cc) provide, control and manage sites for the accommodation of vehicles in or near the road and charge a fee for the use of any such site.

7. Part X of the Principal Act is amended by inserting after section 298 (1) the following subsection :—

Amendment of Part X of Act No. 41, 1919.
Sec. 298.

- (1A) The council may provide, control and manage kindergartens, nurseries, child-care centres, family day-care centres and establishments of a similar nature.

(Provision and management.)

8. Part XI of the Principal Act is amended—

Amendment of Part XI of Act No. 41, 1919.

- (a) (i) by omitting from section 308 (2) the words “A building” and by inserting instead the words “Subject to subsection (5) and to section 308A, a building”;

Sec. 308.
(Building line.)

- (ii) by omitting from section 308 (5) the words “Notwithstanding the foregoing provisions of this section a” and by inserting instead the word “A”;

(b)

Local Government (Amendment).

Sec. 308A.

(b) by inserting after section 308 the following section :—

Approval
for erection
of building
without
regard to
building
line.

308A. (1) An application may be made to the council by or on behalf of any person who is the owner of land that is affected by a building line fixed by section 308 (3) for approval for the erection on the land of a building without regard to the building line.

(2) The application shall—

(a) be in writing;

(b) contain or be accompanied by a plan showing—

(i) the floor plan and the front and side elevations of the proposed building;

(ii) the dimensions of the proposed building; and

(iii) the location of the proposed building in relation to the public road to which the building line relates; and

(c) be accompanied by the prescribed fee (if any).

(d)

(3)

Local Government (Amendment).

(3) Before considering the application, the council shall—

- (a) serve on any person who is the occupier of land the enjoyment of which, in the opinion of the council, might be detrimentally affected by the erection of the proposed building a notice giving him particulars of the application and inviting him, if he so wishes, to object to the application not later than such date as is specified in the notice, being a date at least 14 days after service of the notice; and
- (b) publish in a newspaper circulating in the district in which the land is situated a notice giving particulars of the application and inviting any person who claims to be the owner of land the enjoyment of which might be detrimentally affected by the erection of the proposed building to object to the application not later than such date as is specified in the notice.

(4) The date specified in a notice referred to in subsection (3) (b) shall be the same date as that specified in a notice referred to in subsection (3) (a).

(5) Any person on whom a notice has been served under subsection (3) (a), and any other person who claims that the enjoyment of land owned by him will be detrimentally affected if the proposed building is erected, may, not later than the date specified in a notice served or published under subsection (3), lodge with the council an objection to the application.

(6)

Local Government (Amendment).

(6) Every such objection shall be in writing and shall specify the grounds of objection.

(7) Any person who attends the office of the council during the ordinary business hours of that office after the making of the application, but before the date by which objections to the application are required to be lodged under subsection (5), shall be entitled, on making a request to do so and without payment of any fee, to inspect the plan contained in or accompanying the application.

(8) As soon as practicable after the date by which objections to the application are required to be lodged under subsection (5), the council shall consider the application and any objections that have been so lodged.

(9) If, after considering the application, and, where any objections have been lodged under subsection (5), those objections, the council is of the opinion that—

- (a) by reason of the terrain of the land to which the application relates or of other special circumstances, it is desirable to approve the application; and
- (b) the interests of the applicant outweigh the interests of the persons who lodged the objections,

the council shall approve the application, either unconditionally or subject to such conditions as it specifies in the approval, but if it is not of that opinion, it shall refuse the application.

(10) The council shall, as soon as practicable after approving or refusing the application, notify the applicant in writing of that approval or refusal.

(11)

Local Government (Amendment).

(11) At any time after approval of an application has been notified under subsection (10), the building shown in the plan contained in or accompanying the application may, subject to any conditions specified in the approval and to compliance with Division 4, be erected without regard to the building line.

(12) Division 4c does not apply to or in respect of any application made under this section or to or in respect of any decision of the council in relation to any such application.

- (c) by inserting after section 312 (3) the following subsection :— Sec. 312.
(Applica-
tion.)

(4) The reference in this section to an owner includes a reference to a lessee of land leased in perpetuity from the Crown.

- (d) by omitting section 314 (1A) (c) and (d) and by inserting instead the following paragraphs :— Sec. 314.
(Duty of
council.)

(c) the only departures from the standard prescribed in Schedule 7 and applicable in the particular case are that—

(i) the building is to occupy the whole of the allotment on which the building is to be erected or a greater proportion of the allotment than is prescribed by that standard; and

(ii) the external walls of the building are not to be set back as far as required by that standard; and

(d) the total floor plan area as defined in Schedule 7 is not to exceed one and one-half times the total area of the site as so defined; and

(da)

Local Government (Amendment).

- (da) if the council so requires, an area of open space for the common use of all occupants of the residential part of the building is to be provided either at ground level or in or above the part of the building that is used for residential purposes or partly at ground level and partly in or above the part of the building that is used for residential purposes; and

Amend-
ment of
Part XII of
Act No. 41,
1919.

9. Part XII of the Principal Act is amended—

Sec. 327AA.
(Land
included in
a current
plan not to
be disposed
of except
in lots or
portions
shown on
that plan.)

- (a) (i) by omitting paragraph (b) of the definition of "current plan" in section 327AA (1) and by inserting instead the following paragraph :—

- (b) a Crown plan (whether made before or after the commencement of the Local Government (Amendment) Act, 1970) showing lots or portions, but does not include—

- (i) a Crown plan which shows land specified in the plan as being proposed to be resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land unless it is a plan referred to in paragraph (g) of the definition of "plan of subdivision" in this subsection;

- (ii) a Crown plan which shows land specified in the plan as being leased or proposed to be leased for a period that, including any period of renewal, does not or will not exceed five years;

(iii)

Local Government (Amendment).

- (iii) so much of a Crown plan as relates to land included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was prepared; or
 - (iv) so much of a Crown plan as relates to land included in a subsequent Crown plan showing lots or portions;
 - (ii) by inserting in section 327AA (2) after the words "option of renewal)" the words "or be mortgaged";
 - (iii) by inserting in section 327AA (2) after the words "any disposition" the words "or mortgage";
 - (iv) by inserting in section 327AA (4) (a) after the words "disposed of" the words "or mortgaged";
 - (v) by inserting in section 327AA (4) (b) after the words "disposed of" the words "or mortgaged";
 - (vi) by inserting in section 327AA (4) (c) after the words "the disposition" the words "or mortgaging";
 - (vii) by inserting in section 327AA (4) (c) (i) after the words "disposes of" the words "or mortgages";
 - (viii) by inserting in section 327AA (4) (c) (ii) after the words "dispose of" the words "or mortgage";
 - (ix) by omitting from section 327AA (4) (c) (ii) the word "or" where secondly occurring;
- (x)

Local Government (Amendment).

- (x) by inserting in section 327AA (4) (d) after the words "the disposition" the words "or mortgaging";
- (xi) by omitting from section 327AA (4) (d) the words "Crown plan that is not a current plan." and by inserting instead the following words and paragraphs :—

Crown plan that is not a current plan;

- (e) the disposition of land that is part of a lot or portion in a current plan where the part of the lot or portion is vested in a person in the capacity of executor, administrator or trustee and—

- (i) no other part of the lot or portion is vested in him in that capacity and the disposition is or gives effect to a sale by him in the execution of his powers as executor, administrator or trustee or is made for the purpose of giving effect to the terms of a will or codicil or a deed of settlement or for the purpose of distributing the estate of a deceased intestate; or

- (ii) the disposition gives effect to the terms of a will, codicil or deed of settlement executed before the registration of the current plan;

- (f) the disposition of land that is part of a lot or portion in a current plan by a mortgagee exercising a power of sale under a mortgage which was executed before the date of assent to the Local

Government

Local Government (Amendment).

Government (Amendment) Act, 1976,
where no other part of that lot or
portion is subject to the mortgage; or

(g) the disposition of land that is part of
a lot or portion in a current plan where
the disposition—

(i) is necessary to give effect to
an order, direction or judgment
of a court of competent
jurisdiction;

(ii) is or gives effect to a sale of
land pursuant to a writ of
execution;

(iii) is or gives effect to a sale of
land pursuant to section 602;

(iv) is or gives effect to a sale of
land pursuant to section 61 of
the Mental Health Act, 1958;
or

(v) is or gives effect to a sale of
land pursuant to any power
conferred by or under the
Bankruptcy Act 1966 of the
Parliament of the Common-
wealth,

and the person making the disposition
does not have power to dispose of any
other part of the lot or portion.

- (b) (i) by omitting from section 340c (1) the words "by proclamation" and by inserting instead the words "by a notice";
- (ii) by omitting from section 340c (1) the words "such proclamation" and by inserting instead the words "that notice".

Sec. 340c.
(Vesting of
certain
land in
councils
by notice.)

Local Government (Amendment).

Amendment
of Part XIIA
of Act No.
41, 1919.

Sec. 342ZA.
(Objections
to residential
flat
buildings
and certain
other de-
velopment.)

10. Part XIIA of the Principal Act is amended—

- (a) by omitting from section 342ZA (2) the words “Conveyancing (Strata Titles) Act, 1961” and by inserting instead the words “Strata Titles Act, 1973”;
- (b) by omitting from section 342ZA (3) the word “or” where firstly occurring.

Amend-
ment of
Part XIII of
Act No. 41,
1919.

Secs. 351A,
351B and
351C.

Parking
areas on
public
reserves.

11. Part XIII of the Principal Act is amended—

- (a) by inserting after section 351 the following sections :—

351A. (1) The council may by resolution regulate and control—

- (a) the taking of vehicles, or vehicles of any class or description specified in the resolution, on to any public reserve under its care, conduct and control; and
- (b) the use of vehicles, or vehicles of any class or description so specified, within any such public reserve.

(2) In subsection (1)—

“use” includes parking;

“vehicles” includes vehicles other than motor vehicles.

Liability
of vehicle
owner for
certain
offences.

351B. (1) Where an offence against any ordinance made under section 367 (2) is committed in relation to any motor vehicle, the person who

at

Local Government (Amendment).

at the time of the commission of the offence was the owner of the vehicle shall, by virtue of this section, be guilty of an offence against the ordinance as if he were the actual offender, unless the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(2) Subsection (1) does not affect the liability of the actual offender, but, where a penalty has been imposed or recovered from any person in relation to any offence referred to in that subsection, no further penalty shall be imposed on or recovered in respect of the offence from any other person.

(3) In this section—

“owner”, in relation to a motor vehicle, includes—

- (a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;
- (b) the person in whose name the vehicle is registered except where that person has sold or otherwise disposed of the vehicle and has complied with the regulations under the Motor Traffic Act, 1909, applicable to him with respect to the sale or disposal; and
- (c) in the case of a vehicle to which a trader's plate has been affixed, the person to whom the trader's plate is issued;

“registered” means registered under the Motor Traffic Act, 1909;

“trader's

Local Government (Amendment).

“trader’s plate” means a trader’s plate issued under regulations made pursuant to the Motor Traffic Act, 1909.

Penalty
for certain
offences.

351c. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 351B is guilty of, an offence against an ordinance made under section 367 (2), the servant may serve a notice on the person to the effect that if that person does not desire to have the matter determined by a court, the person may pay to a servant of the council who is specified in the notice, within the period so specified, the amount of penalty prescribed for the offence if dealt with under this section.

(2) A notice under subsection (1)—

- (a) may be served personally or by post; or
- (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 351B, may be served by addressing it to the owner without naming him or stating his address and leaving it on or attaching it to the vehicle.

(3) A person alleged to have committed, or to be guilty of, an offence to which subsection (1) applies has the right to decline to be dealt with under this section.

(4) A person who fails to pay the penalty within the period specified in the notice served on him under subsection (1), or within such extended period as may be allowed in any particular case, is deemed to have declined to be dealt with under this section.

(5)

Local Government (Amendment).

(5) Where the amount of penalty prescribed in respect of an alleged offence is paid pursuant to this section, no further proceedings shall be taken against any person in relation to that offence.

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

(7) The council may by resolution—

- (a) fix the amount of penalty payable under this section for any offence referred to in subsection (1), not exceeding the maximum penalty for the offence imposed by or under this Act; and
- (b) for the purposes of this section, fix the amount of penalty payable—
 - (i) for different offences or classes of offences;
 - (ii) for offences or classes of offences having regard to the circumstances in which, or the manner in which, the offences are committed; or
 - (iii) for offences or classes of offences committed on different public reserves.

(8) This section is in addition to any other section of this or any other Act relating to proceedings which may be taken in respect of offences.

- (b) by inserting at the end of section 367 the following subsection :—

Sec. 367.
(Ordinances.)

(2) Ordinances may be made for carrying sections 351A, 351B and 351C into effect.

Local Government (Amendment).

Amendment
of Part
XVII of Act
No. 41,
1919.
Sec. 419A.

Limitation
on recovery
of charges
for gas or
electricity
supplied.

12. Part XVII of the Principal Act is amended by inserting after section 419 the following section :—

419A. (1) Subject to subsection (2), where—

(a) the council has, whether before or after the date of assent to the Local Government (Amendment) Act, 1976, supplied a quantity of gas or electricity to any person; and

(b) by reason of an error by the council or any servant of the council—

(i) no account showing the amount payable with respect to the quantity so supplied is rendered to that person within 2 years after the date on which such an account would have been rendered to him but for the error; or

(ii) where an account with respect to the quantity so supplied has been rendered to him within that period, the amount shown in the account as being payable for the quantity stated to have been supplied (whether the quantity so stated was the quantity actually supplied or not) was less than that which would have been payable but for the error and no further account is rendered to him within that period showing the additional amount that is payable with respect to the quantity so supplied,

no action is, after the date of assent to the Local Government (Amendment) Act, 1976, maintainable by the council for the recovery of that amount or additional amount, as the case may be.

(2)

Local Government (Amendment).

(2) For the purpose of subsection (1), the expression "error" includes—

- (a) an error of omission or calculation, whether in relation to the quantity of gas or electricity supplied or the amount payable for that quantity; and
- (b) an error of an administrative or clerical nature,

but does not include—

- (c) an error that was induced by fraud committed by or with the connivance of the person to whom the quantity of gas or electricity was supplied; or
- (d) an error that is attributable to the fact that—
 - (i) the quantity of gas or electricity so supplied was consumed without having passed through a meter provided by the council for the purpose of measuring the consumption of gas or of electricity, as the case may be; or
 - (ii) where the quantity of gas or electricity so supplied has passed through a meter so provided, the meter has, whether because of mechanical fault, incapacity of the meter or other cause, failed to record that quantity or failed to record that quantity correctly.

Local Government (Amendment).

Amend-
ment of
Part XXIII
of Act No.
41, 1919.

Secs. 500B
and 500c.

Loans for
sewer con-
nections.

13. Part XXIII of the Principal Act is amended—

- (a) by inserting after section 500A the following sections :—

500B. (1) Subject to this section, the council may, on the application of any person who is the owner of ratable land within the council's area, lend money to that person for the purpose of assisting him in meeting the cost of the work involved in connecting premises on that land with a sewer of a statutory body representing the Crown.

(2) A loan under subsection (1) may be made at such rate of interest, and subject to such conditions and provisions, as the council thinks fit to impose, and in particular any such provisions may include a provision requiring the applicant to pay to the council by equal instalments, and within such period as may be prescribed for the purpose of this subsection, an amount equal to the amount of the loan together with the total amount of interest due in respect of the loan.

(3) The provisions of this Act with respect to the charge of a rate on land in respect of which it is levied shall apply to the amount of a loan made under subsection (1) and of any interest due in respect of the loan as if the amount were a rate so charged and as if the land with respect to which the loan was made were land in respect of which that rate had been levied.

Loans for
the pro-
vision of
water
storage
facilities.

500c. (1) Subject to this section, the council may, on the application of a person who is the owner of ratable land within the council's area, lend money to that person for the purpose of assisting him in meeting the cost of the work involved in installing on that land any water storage

tank

Local Government (Amendment).

tank or other water storage facility for use in connection with any residential premises on that land.

(2) A loan under subsection (1) may be made at such rate of interest, and subject to such conditions and provisions, as the council thinks fit to impose, and in particular any such provisions may include a provision requiring the applicant to pay to the council by equal instalments, and within such period as may be prescribed for the purpose of this subsection, an amount equal to the amount of the loan together with the total amount of interest due in respect of the loan.

(3) The provisions of this Act with respect to the charge of a rate on land in respect of which it is levied shall apply to the amount of a loan made under subsection (1) and of any interest due in respect of the loan as if the amount were a rate so charged and as if the land with respect to which the loan was made were land in respect of which that rate had been levied.

- (b) by omitting from section 504 the words "one thousand dollars" wherever occurring and by inserting instead the matter "\$2,000"; Sec. 504. (General fund may be applied to any purpose.)
- (c) by inserting after section 510B the following Sec. 510c.
section :—

510c. (1) In this section—

"owner", in relation to an article, includes a person who is the joint or part owner of the article and a person to whom the article has been let under a hire-purchase agreement, a hiring agreement or a leasing agreement; Power to impound prescribed articles left unattended or abandoned in or on council property.

"prescribed

Local Government (Amendment).

“prescribed article” means any chattel or other thing of a description or class prescribed for the purposes of this section.

(2) Any prescribed article left unattended or abandoned in or on any public place, public reserve, free parking area or other premises or land vested in or under the care, control and management of the council may be impounded by a proper servant of the council and removed to a place set apart by the council for the storage of articles impounded under this subsection.

(3) An application for the release of an article impounded under subsection (2) may be made to the servant of the council in charge of the place where the article is stored by or on behalf of any person claiming to be the owner of the article at any time before the article is sold or disposed of under this section, and, on the making of such an application, the article shall be released to the applicant if—

(a) that servant of the council is satisfied that the applicant is the owner of the article or, as the case may be, that the person on whose behalf the application is made is the owner of the article and that the applicant has that owner’s authority to make the application on his behalf; and

(b) the applicant—

(i) pays the charge (if any) prescribed for the storage of the article; and

(ii) signs a receipt for the article on a form supplied to him by that servant of the council.

(4) An article impounded under subsection (2) which, in the opinion of the council, has no monetary value may forthwith be disposed of in such manner as the council thinks fit.

(5)

Local Government (Amendment).

(5) Where an article impounded under subsection (2) has, in the opinion of the council, a monetary value, the council shall—

- (a) if it has particulars of a person who is apparently the owner of the article sufficient to identify and locate him, serve on that person a notice to the effect that the article is in the possession of the council and that application for the release of the article may be made in accordance with subsection (3); or
- (b) if it does not have those particulars, cause to be published in a newspaper circulating in the district where the article was impounded a notice to the effect that the article is in the possession of the council and that application for the release of the article may be made in accordance with subsection (3).

(6) A notice served pursuant to subsection (5) (a) or published pursuant to subsection (5) (b) shall be in or to the effect of the prescribed form.

(7) If an article in respect of which a notice has been served or published in accordance with subsection (5) is not, within the prescribed period after that service or publication, released to a person pursuant to an application made under subsection (3), the council may cause the article to be offered for sale by public auction.

(8)

Local Government (Amendment).

(8) If an article offered for sale in accordance with subsection (7) is sold, the following provisions shall apply :—

- (a) the purchaser of the article shall obtain the ownership of the article freed and discharged from any right, interest, charge, trust or obligation to which the article was subject immediately before the sale;
- (b) after deducting the expenses of the sale and an amount equal to the charge (if any) prescribed for the storage of the article, any balance of the proceeds of sale shall be held by the council on trust for the person who, immediately before the sale, was the owner of the article;
- (c) on application being made to the council at any time within six years after the date of the sale, the council may, if it is satisfied that the applicant was the owner of the article immediately before the sale, pay to him the balance (if any) of the proceeds of sale, and the receipt of that applicant shall be an effectual discharge to the council for that balance; and
- (d) if no application is made under paragraph (c) within the period mentioned in that paragraph, the council may transfer the balance (if any) of the proceeds of sale to such fund as it thinks fit and thereupon the amount of that balance shall become the property of the council freed and discharged from the trust mentioned in paragraph (b).

(9) An article offered for sale in accordance with subsection (7) that is not sold may be disposed of in such manner as the council thinks fit.

(10)

Local Government (Amendment).

(10) Where an article impounded under subsection (2) is sold or otherwise disposed of in accordance with this section and the council, in effecting that sale or disposal, has acted in good faith and with reasonable care, no person claiming to have been the owner of the article immediately before the sale or disposal shall, except in relation to the balance of the proceeds of sale (if any) held by the council in accordance with subsection (8) (b), have any claim in respect of the article or any right of action against the council or any other person, whether in conversion or otherwise, in relation to the sale or disposal of the article.

- (d) by omitting from section 513 (1) (t) the word "Act." and by inserting instead the following word and paragraph :—

Act;

- (u) prescribing all matters or things which may be necessary for carrying into effect section 510c.

- (e) by omitting section 514 and by inserting instead the following section :—

514. The council may be a member of—

- (a) the Local Government Association of New South Wales;
- (b) the Shires Association of New South Wales;
- (c) The Local Government Electricity Association of New South Wales;
- (d) The Australian Gas Association; or
- (e) any other association or organisation prescribed for the purpose of this section,

Membership of, and payment of subscriptions to, certain associations and organisations.

and

Local Government (Amendment).

and may pay subscriptions to any such association or organisation, or to any council, committee or section of, or in connection with any meeting, conference or convention held by, any such association or organisation.

Amendment
of Part XXV
of Act No.
41, 1919.

Sec. 536A.
(Vesting.)

14. Part XXV of the Principal Act is amended—

- (a) by omitting from section 536A (1) the words “charges, rates, rights of way, or easements whatsoever.” and by inserting instead the words “charges and rates and, subject to subsection (1A), from all easements.”;
- (b) by inserting after section 536A (1) the following subsections :—

(1A) There may be excepted from the vesting of any land to which any such notice and description relate—

- (a) any easement specified in the notice and to which the land was subject immediately before the vesting; and
- (b) any easement so specified that is appurtenant to any such easement.

(1B) Where, pursuant to subsection (1A), an easement is excepted from a vesting of land and, immediately before that vesting, there was annexed to the easement the benefit of a restriction as to user, that restriction shall, unless otherwise specified in the notice by which the vesting is effected, continue to have effect as if the vesting had not taken place.

Local Government (Amendment).

15. Part XXX of the Principal Act is amended by omitting from section 628 (3) (b) the word "ordinance." and by inserting instead the following words and paragraph :—

Amendment
of Part XXX
of Act No.
41, 1919.

ordinance; and

Sec. 628.
(Ratable
persons,
owners,
and
occupiers.)

- (c) in the case of the service of a rate notice, the service may be effected by delivering the notice to the premises at which the person to be served lives or carries on business and depositing it in a box or receptacle at, on or in the proximity of those premises that is provided, used or designed for the reception of letters addressed to that person.

16. Schedule 3 to the Principal Act is amended—

Amendment
of Schedule
3 to Act
No. 41,
1919.

- (a) by inserting in section 1A after the definition of "Site improvements" the following definition :—

Sec. 1A.
(Defini-
tions.)

"Stratum" has the meaning ascribed to that expression by section 4 (1) of the Valuation of Land Act, 1916.

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

Sec. 2.

2. (1) This section applies to land other than a stratum and shall be read subject to the special provisions of this Schedule relating to mines.

Unimproved
capital value
of land
other than
stratum.

(2) Subject to this section, the unimproved capital value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require,

assuming

Local Government (Amendment).

assuming that the improvements, if any, on or appertaining to the land, and made or acquired by the owner or any of his predecessors in title, had not been made.

(3) Notwithstanding anything in subsection (2), in determining the unimproved capital value of any land it shall be assumed that—

- (a) the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used—
 - (i) in the case of a determination of any such value before 1st January, 1976—at the date to which the valuation relates; or
 - (ii) in the case of a determination of any such value on or after that date—at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and
- (b) such improvements as may be required in order to enable the land to continue to be so used may be continued or made on the land,

but nothing in this subsection prevents regard from being had, in determining that value, to any other purpose for which the land may be used on the assumption that the improvements, if any, referred to in subsection (2) had not been made.

(4)

Local Government (Amendment).

(4) The references in subsections (2) and (3) to improvements do not include site improvements.

(5) Subject to subsections (6) to (13), for the purposes of this section there shall, in determining the unimproved capital value of any land, be allowed a reasonable deduction for profitable expenditure by the owner, occupier or lessee of the land in respect of—

- (a) the effective site improvements, if any, on or appertaining to the land; and
- (b) the visible and effective improvements, if any, which, although not on the land, have been constructed for its drainage, for its protection from inundation or otherwise for its more beneficial use.

(6) The amount of any deduction allowed under subsection (5) for profitable expenditure shall not—

- (a) where the value is determined before 1st January, 1976, exceed the amount that the improvements would have cost if they had been made at the date of the determination; or
- (b) where the value is determined on or after 1st January, 1976, exceed the amount that the improvements would have cost if they had been made at the date as at which the value is determined.

(7)

Local Government (Amendment).

(7) A deduction allowed under subsection (5) for profitable expenditure in respect of effective site improvements on or appertaining to any land shall cease to be allowable—

(a) in the case of expenditure incurred by the owner of the land—

(i) on the sale or resumption of the land; or

(ii) on the expiration of 15 years after the expenditure was incurred,

whichever first occurs; or

(b) in the case of expenditure incurred by the occupier or lessee (if any) of the land—

(i) on the transfer, surrender or expiration of the occupancy or lease; or

(ii) on the expiration of 15 years after the expenditure was incurred,

whichever first occurs.

(8) Where land has been sold or leased by the Crown, a deduction under subsection (5) shall not be allowed where the expenditure was incurred by the Crown except to the extent to which the Crown has been recouped in respect of that expenditure by the purchaser or lessee, otherwise than by payment of rent, rates or taxes.

(9)

Local Government (Amendment).

(9) Where the unimproved capital value of any land is determined on or after 1st January, 1976, the amount of any deduction allowed under subsection (5) shall be calculated on the assumption that—

- (a) the amount of the deduction is being calculated at the date as at which the unimproved capital value is being determined; and
- (b) any improvements referred to in subsection (5) in existence at the relevant date (as defined in section 6A (6) of this Schedule) were in existence at the date as at which that value is being determined.

(10) Where—

- (a) the unimproved capital value of any land is determined as at a date on or after 1st January, 1976; and
- (b) the occupier of the land is one of a number of occupiers authorised under Division 4 of Part II of the Water Act, 1912, to construct and use a joint water supply scheme,

the reference in subsection (5) to profitable expenditure by an owner, occupier or lessee of land shall, in respect of that joint water supply scheme, be deemed to include that part of the profitable expenditure that bears the same proportion to the total profitable expenditure incurred in carrying out those works as the amount contributed by that occupier bears to the total cost of the works.

(11) Subject to subsection (12), on and after 1st January, 1976, a deduction in relation to a joint water supply scheme may, in respect of any land referred to in subsection (10), be ascertained

at

Local Government (Amendment).

at any time before the next determination of the unimproved capital value of that land, and subsections (6), (7) and (8) and subsections (14) and (15) shall apply in respect of that deduction as if it were a deduction to which subsection (5) relates.

(12) The deduction referred to in subsection (11) shall—

- (a) be ascertained only in respect of such of the improvements referred to in subsection (5) as were in existence as at the date at which the last determination of the unimproved capital value of the land was made; and
- (b) be ascertained on the assumption that the deduction is being calculated as at that date.

(13) In levying rates on the basis of the unimproved capital value of land to which this Schedule relates any deduction allowed under subsection (5) shall be in addition to any deduction or reduction allowed or required to be made under this or any other Act.

(14) A deduction allowed under subsection (5) shall be noted separately in the council's valuation book and in the notice of valuation, and an objection may be made in respect of that deduction in accordance with this Schedule as if the deduction were a valuation.

(15) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that a deduction has not been allowed under subsection (5).

(c)

Local Government (Amendment).

- (c) by omitting section 2A (1) and (2) and by inserting instead the following subsections :—
- Sec. 2A.
(Unimproved capital value of strata.)

(1) This section applies to land that is a stratum, and shall be read subject to the special provisions of this Schedule relating to mines.

(1A) The unimproved capital value of a stratum is the capital sum which the fee-simple of the stratum might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require assuming—

(a) that the improvements, if any, within the stratum and made or acquired by the owner or any of his predecessors in title had not been made except that where the stratum is wholly or partly in an excavation it shall be assumed that the excavation of the stratum had been made;

(b) that means of access to the stratum may be used, and may continue to be used, as they were being used—

(i) in the case of a determination of any such value before 1st January, 1976 —at the date to which the valuation relates; or

(ii) in the case of a determination of any such value on or after that date—at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

(d)

(c)

Local Government (Amendment).

- (c) that all land outside the stratum, including land of which the stratum forms part, is in the state and condition existing at the date referred to in paragraph (b), and in particular, without limiting the generality of this assumption, that, where the stratum consists partly of a building, structure or work or is a portion of a building, structure or work, that building, structure or work, to the extent that it is outside the stratum, had been constructed or, as the case may be, performed.

(1B) Notwithstanding anything in subsection (1A), in determining the unimproved capital value of a stratum it shall be assumed that—

- (a) the stratum may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used—
- (i) in the case of a determination of any such value before 1st January, 1976 —at the date to which the valuation relates; or
- (ii) in the case of a determination of any such value on or after that date— at the relevant date (as defined in section 6A (6) of this Schedule) or, where the value is determined pursuant to section 8A (2) or 10 (3A) of this Schedule, at the date as at which the value is being determined; and

(b)

Local Government (Amendment).

- (b) such improvements as may be required in order to enable the stratum to continue to be so used may be continued or made in the stratum,

but nothing in this subsection prevents regard being had, in determining that value, to any other purpose for which the stratum may be used on the assumptions set out in subsection (1A).

(1C) Subject to subsection (1D), for the purpose of this section there shall, in determining the unimproved capital value of any stratum, be allowed a reasonable deduction for profitable expenditure made by the owner or occupier of the stratum in respect of visible and effective improvements, if any, which, although not in the stratum, have been constructed exclusively for the benefit of the stratum or the improvements in it.

(1D) Where the unimproved capital value of any stratum is determined on or after 1st January, 1976, the amount of any deduction allowed under subsection (1C) shall be calculated on the assumption that—

- (a) the amount of the deduction is being calculated at the date as at which the unimproved capital value is being determined; and
- (b) any improvements referred to in subsection (1C) in existence at the relevant date (as defined in section 6A (6) of this Schedule) were in existence at the date as at which that value is being determined.

(1E)

Local Government (Amendment).

(1E) In levying rates on the basis of the unimproved capital value of a stratum any deduction allowed under subsection (1C) shall be in addition to any deduction or reduction allowed or required to be made under this or any other Act.

(2) Any deduction allowed under subsection (1C) shall be noted separately in the council's valuation book and in the notice of valuation, and an objection may be made in respect of that deduction in accordance with this Schedule as if the deduction were a valuation.

(2A) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that a deduction has not been allowed under subsection (1C).

Sec. 2B.
(Rates to
be levied
on unim-
proved
capital
value less
deduc-
tions.)

(d) by inserting in section 2B after the word "Schedule" the words "and the amount of any deduction allowed or required to be made under any Act when levying rates on the basis of the unimproved capital value of the land";

Sec. 4.
(Assessed
annual
value.)

(e) by omitting section 4 (1) and by inserting instead the following subsection :—

(1) The assessed annual value of land other than a stratum is—

(a) nine-tenths of the fair average annual value of the land, with improvements, if any, on the land; or

(b) five per centum—

(i) of the improved capital value of the land in the case of a value determined before 1st January, 1976; or

(ii)

Local Government (Amendment).

- (ii) of the unimproved capital value of the land in the case of a value determined on or after 1st January, 1976,

whichever is the greater.

- (f) by inserting after section 4 the following section :— Sec. 4A.

4A. The assessed annual value of a stratum is— Assessed annual value of strata.

(a) nine-tenths of the fair average annual value of the stratum, with the improvements, if any, in the stratum; or

(b) five per centum—

- (i) of the improved capital value of the stratum in the case of a value determined before 1st January, 1976; or

- (ii) of the unimproved value of the stratum in the case of a value determined on or after 1st January, 1976,

whichever is the greater

- (g) by omitting section 6 (2) and (3) and by inserting Sec. 6. (Compulsory and optional valuations.) instead the following subsections :—

(2) There shall be a determination of the improved capital value of all ratable land within a municipality, except that on and after 1st January, 1976, such a determination shall be made only if the council of the municipality so decides.

(3)

Local Government (Amendment).

(3) There shall be a determination of the assessed annual value of all ratable land in the whole or any part of a municipality or shire—

- (a) whenever such a determination is required in respect of that land for the purposes of this or any other Act; or
- (b) whenever the council of the municipality or shire is requested in writing by a rating or taxing authority to make such a determination in respect of that land,

but in all other cases such a determination shall be made only if the council so decides.

(3A) The operation of section 8A of this Schedule is not affected by any valuation carried out under this section.

Sec. 6A.

(h) by inserting after section 6 the following section :—

Date at
which
certain
values
are to be
determined.

6A. (1) Subject to this section, where the unimproved capital value or the assessed annual value of any land is determined on or after 1st January, 1976, the value determined shall—

- (a) if part of a valuation made pursuant to section 8 (1) of this Schedule commenced on or after 1st January, 1976, be the unimproved capital value or the assessed annual value, as the case may be, of the land as at the first day of January in the year in which that valuation commenced; or
- (b) if not part of such a valuation, be the unimproved capital value or the assessed annual value, as the case may be, of the land as at the first day of January in the year in which the preceding valuation under

section

Local Government (Amendment).

section 8 (1) of this Schedule for the area or part of the area in which the land is situated—

- (i) in the case of a valuation made pursuant to section 8 (2) of this Schedule (not being a valuation made pursuant to section 10 (3) of this Schedule)—commenced;
- (ii) in the case of a valuation made pursuant to section 8A (1) of this Schedule—commenced before the date on which the land concerned became ratable;
- (iii) in the case of a valuation made pursuant to section 8A (2) of this Schedule—commenced;
- (iv) in the case of a valuation made pursuant to section 10 (3) of this Schedule—commenced before the date on which the land concerned was sold, conveyed or resumed, as the case may be; or
- (v) in the case of a valuation made pursuant to section 10 (3A) of this Schedule—commenced.

(2) In the application of subsection (1), in determining the unimproved capital value or the assessed annual value of land (not being a value determined pursuant to section 8A (2) or 10 (3A) of this Schedule), it shall be assumed—

(a) in the case of land (other than a stratum) that—

- (i) the physical condition of the land and of any other land: and

(ii)

Local Government (Amendment).

- (ii) the manner in which any other land may be used; and

(b) in the case of a stratum, that—

- (i) the physical condition of the stratum; and
- (ii) the manner in which land outside the stratum (including the land of which the stratum forms part) may be used,

were the same on the date as at which the value is being determined as they are or were on the relevant date.

(3) In the application of subsection (1), in determining the assessed annual value of a stratum (other than a valuation made pursuant to section 8A (2) of this Schedule), it shall be assumed that the physical condition of any land outside the stratum (including the land of which the stratum forms part) was the same on the date as at which the value is being determined as it is or was on the relevant date.

(4) A certificate purporting to be signed by the clerk certifying that—

- (a) a valuation is or is not part of a valuation made pursuant to section 8 (1) of this Schedule;
- (b) a valuation made pursuant to section 8 (1) of this Schedule commenced on a date specified in the certificate; or

(c)

Local Government (Amendment).

(c) the last valuation made pursuant to section 8 (1) of this Schedule in respect of an area or part of an area specified in the certificate before the date on which the certificate is given commenced on a date so specified, shall be admissible in all proceedings before any court or tribunal as evidence of that fact.

(5) This section does not apply to a valuation of land made pursuant to section 8 (3) of this Schedule.

(6) In this section "relevant date" means—

- (a) in the case of a valuation of any land that is part of a valuation made pursuant to section 8 (1) or (2) of this Schedule (not being a valuation made pursuant to section 10 (3) of this Schedule), the date on which the valuation is made;
- (b) in the case of a valuation of land made pursuant to section 8A (1) of this Schedule, the date on which the land became ratable; or
- (c) in the case of a valuation of land made pursuant to section 10 (3) of this Schedule, the date on which the land was sold, conveyed or resumed, as the case may be.

- (i) by omitting section 8 (3) and by inserting instead the following subsections :—

Sec. 8.
(Valuation periods.)

(3) Where any non-ratable land has become ratable before 1st January, 1976, that land shall be valued as at the date on which it becomes ratable, whether or not the valuation is made before or on or after that date.

(4)

Local Government (Amendment).

(4) A valuation made pursuant to subsection (3) shall be entered in the council's valuation book and shall have effect for rating purposes as if it had been made and entered, and come into force, on the date as at which it is deemed to have been made.

Sec. 8A.

(j) by inserting after section 8 the following section :—

Valuations
on land
becoming
ratable on
or after 1st
January,
1976.

8A. (1) Where on or after 1st January, 1976, any non-ratable land becomes ratable and, at the date at which the land becomes ratable, no valuation of the land is entered in the council's valuation book, a determination shall be made of—

- (a) the unimproved capital value of the land;
and
- (b) if a rating or taxing authority so requests in writing or the council so decides, the assessed annual value of the land.

(2) If, on or after 1st January, 1976, any land has become ratable and, since the date on which that land became ratable, a valuation of the area or part of the area in which that land is situated has been made under section 8 (1) of this Schedule and that valuation did not include a valuation of that land, a further determination shall be made of—

- (a) the unimproved capital value of that land;
and
- (b) if a rating or taxing authority in writing so requests or the council so decides, the assessed annual value of that land.

(3) Valuations made pursuant to this section shall be entered in the council's valuation book and shall, until the land concerned is included in a subsequent valuation which is used for rating

purposes,

Local Government (Amendment).

purposes, be deemed to be valuations made on the date as at which the valuations are being determined and have effect for the purpose of levying rates that are made and leviable on the basis of unimproved capital values of land or assessed annual values of land, as the case may be.

- (k) by omitting from section 9 the words “, are of the same class of tenure,” wherever occurring; Sec. 9.
(Inclusive valuation.)

- (l) (i) by omitting from section 10 (1) the words “are not of the same class of tenure, or”; Sec. 10.
(Separate valuations.)

- (ii) by omitting from section 10 (2) the words “and of the same class of tenure”;

- (iii) by omitting from section 10 (3) the word “Where” and by inserting instead the words “Except as provided in subsection (3A), where”;

- (iv) by inserting after section 10 (3) the following subsections :—

(3A) Where a part of a parcel of land (being a parcel which has been valued) has been sold, conveyed or resumed and, since the sale, conveyance or resumption, a valuation under section 8 (1) of this Schedule has been made which included a valuation of the parcel but which did not include separate valuations of that part and the part remaining after the sale, conveyance or resumption, a further valuation shall be made of each of those parts.

(3B)

Local Government (Amendment).

(3B) Valuations of a part of a parcel of land made pursuant to subsections (3) and (3A) shall, until a separate value for that part is included in a subsequent valuation which is used for rating and taxing purposes, be used by rating or taxing authorities as the basis of any rate or tax levied or leviable in respect of any rating or taxing year following the sale, conveyance or resumption of that part to the exclusion of any other valuation.

Secs. 10A
and 10B.

(m) by inserting after section 10 the following sections :—

Apportion-
ment factor
to be
calculated in
respect of
mixed
development
land.

10A. (1) Where a valuation is made under this Schedule of any mixed development land, an apportionment factor shall be calculated in respect of that mixed development land.

(2) The apportionment factor with respect to any mixed development land referred to in subsection (1) shall be calculated by applying the following formula :—

$$a = \frac{b}{c} \times 100$$

where—

a = the apportionment factor expressed as a percentage;

b = the rental value of the part of the mixed development land that is non-residential;

c = the rental value of the mixed development land as a whole.

(3)

Local Government (Amendment).

(3) Where the rental value of any mixed development land, or any part of any such land, is determined for the purpose of subsection (2), section 6A of this Schedule shall apply to that determination in the same way as it would apply if the unimproved capital value or the assessed annual value of the land or part were then being determined and as if the references in that section to "unimproved capital value" and "assessed annual value" were references to "rental value".

(4) An apportionment factor calculated under this section in respect of any land shall be noted in the council's valuation book and shown in the notice of valuation relating to the land, and an objection in accordance with this Schedule may be made in respect of that apportionment factor as if it were a valuation.

(5) The right under this Schedule to object to a valuation in respect of any land includes a right to object on the ground that an apportionment factor has not been calculated in respect of the land.

10B. (1) Subject to this section, for the purposes of section 10A of this Schedule—

Interpreta-
tion for
purposes of
section
10A.

"mixed development land" means a parcel of land occupied or used solely as the site of one building comprising—

- (a) one, or more than one, flat; and
- (b) one, or more than one, office;

"non-residential land" means—

- (a) a parcel of land that is not residential land or mixed development land;

(b)

Local Government (Amendment).

- (b) a strata lot that is not residential land;
- (c) a parcel of land occupied or used (whether wholly or partly) as the site of an inn; or
- (d) a stratum separately valued under this Act that is not a stratum referred to in paragraph (g) of the definition of "residential land" in this subsection;

"residential land" means—

- (a) a parcel of land occupied or used solely as the site of one single dwelling;
- (b) a parcel of land (not exceeding 2.5 hectares in area) occupied or used solely as the site of a single dwelling and for primary production;
- (c) a parcel of land occupied or used solely as the site of one building comprising two or more flats;
- (d) a parcel of land occupied or used solely as the site of a guest-house, or a boarding-house, containing not more than ten bedrooms;
- (e) a strata lot occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

(f)

Local Government (Amendment).

- (f) a strata lot designed and intended for use in conjunction with a strata lot referred to in paragraph (e) for the purpose of accommodating one, or more than one, motor vehicle; or
- (g) a stratum separately valued under this Schedule that is occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling.

(2) A parcel of land occupied or used as the site of a single building comprising one, or more than one, office is not mixed development land by reason only that it comprises (in addition) one, or more than one, flat, if the flat is, or the flats are, intended for use for the purpose of accommodating a person or persons responsible for the security or maintenance of the building.

(3) For the purposes of—

- (a) the definition of “mixed development land” in subsection (1), a parcel of land does not cease to be occupied or used solely as the site of one building comprising one, or more than one, flat and one, or more than one office; and
- (b) the definition of “residential land” in that subsection, a parcel of land does not cease to be occupied or used solely as the site of one single dwelling, one building comprising two or more flats, a guest-house or a boarding-house,

by

Local Government (Amendment).

by reason of there being on the parcel of land any building or improvement that is occupied or used for a purpose ancillary to the single dwelling, building, guest-house or boarding-house, as the case may be.

(4) The reference in this section to a parcel of land is a reference to a parcel of land required to be separately valued, or to land included in one valuation, pursuant to this Act.

(5) For the purposes of paragraph (b) of the definition of "residential land" in subsection (1) land is used for primary production if it is used primarily—

- (a) for cultivation for the purpose of selling the produce of that cultivation;
- (b) for the maintenance of animals or poultry for the purpose of selling those animals or poultry or their natural increase or bodily produce; or
- (c) for the keeping of bees for the purpose of selling the honey produced by those bees.

(6) In this section—

"flat" means a room or a suite of rooms occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a strata lot;

"inn" has the meaning ascribed thereto by section 3 of the Innkeepers Act, 1968;

"office" means a room or a suite of rooms separately occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being

separately

Local Government (Amendment).

separately occupied or used, for any commercial, industrial or professional purpose;

“single dwelling” means a house occupied or used, or if not occupied or used so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling, but does not include a lot in a strata plan or a property commonly known as a shop and dwelling;

“strata lot” means a lot as defined in section 5 (1) of the Strata Titles Act, 1973.

- (n) by omitting section 12 (2) and by inserting instead the following subsections :—

Sec. 12.
(Mines—
unimproved
capital
value.)

(2) Where the unimproved capital value of a coal mine is required to be ascertained by valuation based on output, that value shall be a sum equal to 75 cents per tonne of the average annual output of coal from the mine during the 3 years preceding the year in which the value is being determined or, if the mine has been worked for less than that period, during such part of that period as the mine has been worked.

(2A) Where the unimproved capital value of a shale mine is required to be ascertained by valuation based on output, that value shall be a sum equal to 25 cents per tonne of the average annual output of shale from the mine during the 3 years preceding the year in which the value is being determined or, if the mine has been worked for less than that period, during such part of that period as the mine has been worked.

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

A. R. CUTLER,
Governor.

*Government House.
Sydney, 1st April, 1976.*

