



New South Wales

Local Government Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to amend the *Local Government Act 1993*:

- (a) to make further provision with respect to the following:
 - motions to rescind, alter or negative council resolutions,
 - delegation powers of councils and general managers,
 - waiver by councils of approved fees,
 - sale of land by councils for unpaid rates and charges, and
 - (b) to enable councils, in certain circumstances, to make charges for domestic waste management services in respect of land that is exempt from rating, and
 - (c) to enable councils to catch up income lost due to reductions in land valuations, and
 - (d) to exempt from rates land that is the subject of a conservation agreement under the *National Parks and Wildlife Act 1974*, and
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- (e) to increase the penalties for offences relating to certain orders given by councils, and
- (f) to enable apportionment factors determined under the *Valuation of Land Act 1916* to be taken into account in determining rates and annual charges applicable to mixed land development (that is, land occupied or used solely as the site of one or more buildings comprising flats and offices), and
- (g) to make other miscellaneous amendments and minor amendments.

Outline of provisions

Clause 1 specifies the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the *Local Government Act 1993*.

Clause 4 is a formal provision that gives effect to the Schedule containing amendments to other Acts.

Schedule 1 Amendment of Local Government Act 1993

Schedule 1 [1] amends section 9 to make it clear that councils can give additional notice of a council meeting or a meeting of certain committees of the council, or make available additional copies of business papers for such meetings, to the public in electronic form (for example, by electronic mail).

Schedule 1 [2]–[4] amend section 70 to make it clear that the technical provisions of the State's building laws that apply to a building erected by or on behalf of the Crown (or certain prescribed persons) if the erection of the building commences on or after 1 July 1993 are those provisions in force as at the date of the invitation for tenders to erect the building or, in the absence of tenders, the date on which the erection of the building commences.

Schedule 1 [5] amends section 71. That section provides that the use of a building or temporary structure by the Crown as a place of public entertainment requires the approval of the Minister for Local Government. The amendment makes it clear that the Crown does not use a building or temporary structure for the purposes of the section if the building or temporary structure is subject to a lease from the Crown to a person who is not or does not represent the Crown.

Schedule 1 [6]–[8] amend section 82 to omit the requirement for the concurrence of the Director-General of the Department of Local Government in respect of an objection made to a council by an applicant for an approval that all or part of a local policy should not apply to the activity for which the approval is sought. The amendments retain the requirement for the concurrence of the Director-General if the objection relates to the application of the regulations to the particular activity.

Schedule 1 [9] amends section 103 to make it clear that a variation of the duration of an approval means an increase or reduction in the duration of the approval.

Schedule 1 [10] amends section 106 to allow councils to amend an approval without renotifying any person who was required to be notified in respect of the original approval if:

- the council is satisfied that the amended approval will be substantially the same as the original approval and that no prejudice will be caused to any such person, and
- the council has consulted with any person or authority whose concurrence was required to the original approval and that person or authority does not object to the amendment of the original approval.

Schedule 1 [11] and [12] amend section 124 which relates to the orders that a council may give. At present, councils are able to issue an order to require that an “unsightly” building be demolished or repaired (orders Nos 1 (c) and 3 (b)). The amendments omit the word “unsightly”.

Schedule 1 [13] inserts proposed section 131A which relates to orders that will or are likely to result in making residents homeless. If a council proposes to make such an order, the council must consider whether any resident concerned can arrange satisfactory alternative accommodation in the locality. If the resident is not able to do so, the council must provide the resident with information about the availability of satisfactory alternative accommodation in the locality and any other assistance that the council considers appropriate.

Schedule 1 [14] amends section 356 to omit the requirement for a council to give public notice of its intention to grant financial assistance to a person who acts for private gain. A council may dispense with such notice if the financial assistance is part of a specific program and the program’s details have been included in the council’s draft management plan for the year in which the financial assistance is proposed to be given, the program’s budget does not exceed 5% of the council’s income from ordinary rates levied for that year and the program is uniformly available to all persons within the council’s area or to a significant group of persons within the area.

Schedule 1 [15] amends section 367 to allow notice of a council meeting (and the business paper for the meeting) to be given to a councillor in electronic form if all the councillors have facilities to access the notice and the business paper in that form.

Schedule 1 [16] replaces existing section 372, and inserts proposed sections 372A and 372B, to restate (with certain modifications) the existing provisions relating to the rescission, alteration and negating of council resolutions.

The modifications provide as follows:

- notice of motion to rescind a resolution must be given at the meeting at which the resolution is passed,
- a motion to rescind a resolution may only be moved at the meeting following the meeting at which the notice of the motion is given (the motion may however be adjourned at the following meeting for consideration at a subsequent meeting),
- the person presiding at a meeting:
 - (a) before the close of the meeting:
 - (i) must call for notice to be given of any motions to rescind a resolution passed at the meeting, and
 - (ii) must announce to those present at the meeting that if such notice is given, the resolution concerned will not be carried into effect until the motion of rescission has been dealt with, and
 - (iii) must allow a reasonable time for such notice to be given before the close of the meeting, and
 - (b) if such notice is given, must announce that fact to those present at the meeting and must do so when the meeting is open to the public (whether or not the meeting (or part of the meeting) has been closed to the public),
- a motion to alter a resolution that has the same effect as a motion to rescind the resolution must comply with the requirements relating to motions to rescind a resolution,
- the provisions relating to motions to rescind or alter a resolution or certain motions that are negated apply to resolutions passed by a council as well as a committee of the council of which all the members are councillors,

- the requirements for motions to alter a resolution and for certain motions that are negatived must not be circumvented by a report of a council committee to a subsequent council meeting.

Schedule 1 [17] amends section 377 to enable a council to sub-delegate any function delegated to the council by the Director-General.

Schedule 1 [18] amends section 378 to enable the general manager to sub-delegate any function sub-delegated to the general manager by the council that was delegated to the council by the Director-General.

Schedule 1 [19] amends section 496 to enable a council to make an annual charge for the provision of a domestic waste management service to land that is exempt from rating if the service is available for that land and the owner of the land requests or agrees to the service being provided. The amount of the annual charge is to be limited to recovering the cost of providing the service to the land.

Schedule 1 [20] amends section 505 to provide that an annual charge made by a council under section 611 (that is, an annual charge on a person in possession, occupation or enjoyment of a rail, pipe, wire, pole, cable, tunnel or structure that is on, under or over a public place) is not to be included in a council's calculation of its general income. **Schedule 1 [31]** makes a consequential amendment.

Schedule 1 [22] inserts proposed section 511A to enable a council to catch up part of the maximum permissible general income determined for a year that is lost to the council (referred to in the proposed section as the *unrecovered amount*) because, after the determination is made, a valuation used in making a rate is reduced as a result of a valuation objection or appeal.

Under the proposed section, the council may increase the maximum permissible general income for a year by any unrecovered amount for a previous year. **Schedule 1 [21]** and **[23]** make consequential amendments.

Schedule 1 [24] amends section 513 to enable a council to request the Valuer-General to provide estimates of increases and decreases in the value of parcels of rateable land for which supplementary valuations have been furnished but which have a different base date from those used for rating for that rating year because of a general revaluation of land in the council's area occurring in that rating year. The amendment will enable the estimates to be used in the calculation of the council's notional general income under section 509.

Schedule 1 [25] amends section 516 to include a definition of *boarding house* or *lodging house* for the purposes of the section. *Boarding house* or *lodging house* is defined to mean a building wholly or partly let as lodging in which each letting provides the tariff-paying occupant with a principal place of residence and in which:

- each tariff charged does not exceed the maximum tariff for boarding houses or lodging houses for the time being determined by the Minister by order published in the Gazette, and
- there are at least 3 tariff-paying occupants who have resided there for the last 3 consecutive months, or any period totalling 3 months during the last year.

The definition includes a vacant building that was so let immediately before becoming vacant, but does not include a residential flat building, licensed premises, a residential centre for handicapped persons licensed under the *Youth and Community Services Act 1973*, a private hotel, a building containing serviced apartments or a backpacker hostel or other tourist establishment.

Schedule 1 [26] inserts proposed sections 518A and 518B. Proposed section 518B enables rates and charges that are made and levied according to categories or sub-categories of land to be applied to a parcel of mixed development land according to the percentages represented by the apportionment factor for the parcel determined under the *Valuation of Land Act 1916*.

Proposed section 518A makes a related amendment. It provides that a strata lot, a company title dwelling or a portion of a company title building is taken to be a separate parcel of land for the purposes of categorisation.

Schedule 1 [27] and [28] amend section 555 to exempt from all rates land that is the subject of a conservation agreement under the *National Parks and Wildlife Act 1974*. If the land concerned comprises part of a single parcel of land for rating purposes, that part will be exempt, however, rates may be made and levied on the other part of that parcel proportionately.

Schedule 1 [29] amends section 608 to enable a council to recover an approved fee charged in connection with a service provided at an airport established and maintained by the council from the holder of the certificate of registration issued under the *Civil Aviation Regulations* of the Commonwealth for the aircraft in respect of which the service was provided whether or not the holder is the person to whom the service is actually provided.

Schedule 1 [30] inserts proposed section 610A to enable a council to waive payment of, or reduce, an approved fee in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.

A council must not determine a category of cases until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed approved fee under section 612 (Public notice of approved fees).

Schedule 1 [32] and [33] amend section 628 to increase the maximum penalty to 100 penalty units (\$10,000) for individuals and 200 penalty units (\$20,000) for corporations for failure to comply with the following orders given by a council under section 124:

- fire safety upgrading (order No 4), and
- cease hazardous activity (order No 15), and
- cease use of or evacuate premises (order No 16), and
- leave or not enter premises (order No 17).

(The current maximum penalty for these orders is 50 penalty units (\$5,000) for individuals and 100 penalty units (\$10,000) for corporations.)

Schedule 1 [34] amends section 713 to limit the sale of vacant land on which any rate or charge is unpaid for 12 months to circumstances where:

- the council obtains a valuation of land from the Valuer-General, and
- the amount of unpaid rates or charges on the land exceeds that valuation, and
- the council sells the land within 6 months after the date when the council received the valuation.

Schedule 1 [35] amends section 732 to extend the circumstances in which a council, a councillor or an employee of a council is exempt from any liability in respect of accreditation and certification matters to the situation where the council receives a certificate issued in accordance with the certificate procedure under section 653B as to the maintenance of essential fire or other safety measures applicable to a building. (Section 653B and related provisions are to be inserted by Schedule 1 to the *Local Government Amendment Act 1996*.)

Schedule 1 [36] inserts proposed section 735A to enable a person, on payment of the approved fee, to apply to a council for a certificate as to whether there are any outstanding notices (which include any notifications, orders, directions or demands) issued by the council under the Act in respect of the land concerned. The production of the certificate is taken to be conclusive proof of the existence or otherwise of any outstanding notices.

Schedule 1 [37] amends Schedule 7 by inserting proposed clause 33 to provide that the number of councillors for the Maitland City Council is to be 13 for the term of office commencing next after the Council's ordinary election in September 1999.

Schedule 1 [38] and **[39]** insert provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

The *Bush Fires Act 1949* is amended to prevent the appointment of councillors as fire control officers or deputy fire control officers and requires a fire control officer or deputy fire control officer who becomes a councillor to cease to be such an officer within a specified period. Provision is also made in respect of existing councillors who hold such positions (**Schedule 2.1 [1]** and **[2]**).

The *Defamation Act 1974* is amended in respect of the Local Government Pecuniary Interest Tribunal constituted under Chapter 14 of the *Local Government Act 1993* to provide:

- (a) a defence of absolute privilege for a publication to or by the Tribunal if the publication is made for the purpose of the execution or administration of the *Local Government Act 1993* (**Schedule 2.2 [1]**), and
- (b) a defence for the publication of a fair protected report of proceedings of the Tribunal and (in some cases) for the later publication by another person of the protected report (or material purporting to be the protected report) or a copy of the protected report or the material, or a fair extract or fair abstract from, or fair summary of, the protected report or the material (**Schedule 2.2 [2]**), and
- (c) a defence for the publication of a decision, or a copy of a decision, of the Tribunal or a fair extract or fair abstract from, or fair summary of, any such decision (**Schedule 2.2 [3]**), and
- (d) that the amendments extend to a publication made before the commencement of the amendments (**Schedule 2.2 [4]**).

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Explanatory note

The *Valuation of Land Act 1916* is amended:

- (a) as a consequence of the exemption from rates under the *Local Government Act 1993* of land that is subject to a conservation agreement under the *National Parks and Wildlife Act 1974* (**Schedule 2.3 [1]–[3]**), and
- (b) to make consistent land that is covered by the definition of ***residential land*** in the Act with land that is categorised as residential under the *Local Government Act 1993* (**Schedule 2.3 [4]–[7]**), and
- (c) to exclude company title dwellings, or portions of a company title building, from the definitions of ***flat*** and ***office*** in the Act (**Schedule 2.3 [8] and [9]**).

First print



New South Wales

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New South Wales

Local Government Amendment Bill 1997

No , 1997

A Bill for

An Act to amend the *Local Government Act 1993* with respect to council resolutions, rates and charges and in other miscellaneous respects; to amend the *Valuation of Land Act 1916* consequentially; to amend certain other Acts in respect of matters relating to local government; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

 This Act is the *Local Government Amendment Act 1997*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section. 5
- (2) Schedule 1 [22] and [26] commence or are taken to have commenced on 1 July 1997.
- (3) Schedule 1 [38] and [39] commence on the date of assent.

3 Amendment of Local Government Act 1993 No 30 10

 The *Local Government Act 1993* is amended as set out in Schedule 1.

4 Amendment of other Acts

 The Acts specified in Schedule 2 are amended as set out in that Schedule. 15

Schedule 1 Amendment of Local Government Act 1993

(Section 3)

[1] Section 9 Public notice of meetings

Insert after section 9 (4): 5

- (5) A notice given under this section or a copy of a business paper made available under this section may in addition be given or made available in electronic form.

[2] Section 70 Compliance by the Crown with building standards

Omit section 70 (1). Insert instead: 10

- (1) This section applies to a building erected by or on behalf of the Crown or a person prescribed by the regulations if the erection of the building commences on or after 1 July 1993.

[3] Section 70 (2) 15

Insert "in force as at the date of the invitation for tenders to erect the building or, in the absence of tenders, the date on which the erection of the building commences" after "laws".

[4] Section 70, note

Insert at the end of the section: 20

Note. Erection, in relation to a building, is defined in the Dictionary for this Act as including any structural work and any alteration, addition or rebuilding.

[5] Section 71 Use by the Crown of places of public entertainment

Insert after section 71 (6): 25

- (7) The Crown does not use a building or temporary structure for the purposes of this section if it is subject to a lease from the Crown to a person who is not or does not represent the Crown.

Note. Building is defined in the Dictionary for this Act to include part of a building and any structure or part of a structure, but not to include a moveable dwelling or associated structure or part of a moveable dwelling or associated structure. 30

[6] Section 82 Objections to application of regulations and local policies

Omit section 82 (3). Insert instead:

- (3) If the objection relates to the regulations and the council is satisfied that the objection is well founded, it may, with the concurrence of the Director-General, in determining the application, direct that:
 - (a) such provisions of any regulation relating to that activity as are specified in the direction:
 - (i) are not to apply, or
 - (ii) are to apply with such modifications as are specified in the direction,in respect of the carrying out of that activity, or
 - (b) such requirements as are specified in the direction are to apply to the carrying out of that activity,or give directions under both paragraphs (a) and (b).5
- (3A) If the objection relates to a local policy adopted under Part 3 by the council and the council is satisfied that the objection is well founded, it may, in determining the application, direct that:
 - (a) such provisions of any local policy relating to that activity as are specified in the direction:
 - (i) are not to apply, or
 - (ii) are to apply with such modifications as are specified in the direction,in respect of the carrying out of that activity, or
 - (b) such requirements as are specified in the direction are to apply to the carrying out of that activity,or give directions under both paragraphs (a) and (b).10
- (3A) If the objection relates to a local policy adopted under Part 3 by the council and the council is satisfied that the objection is well founded, it may, in determining the application, direct that:
 - (a) such provisions of any local policy relating to that activity as are specified in the direction:
 - (i) are not to apply, or
 - (ii) are to apply with such modifications as are specified in the direction,in respect of the carrying out of that activity, or
 - (b) such requirements as are specified in the direction are to apply to the carrying out of that activity,or give directions under both paragraphs (a) and (b).15

- [7] Section 82 (4)** 20
- Insert "or (3A)" after "(3)".

[8] Section 82 (4)

Omit "paragraph (a) (ii) or (b) of that subsection".

Insert instead "subsection (3) (a) (ii) or (b) or subsection (3A) (a) (ii) or (b)".

[9] Section 103 When does an approval lapse?

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Insert after section 103 (4):

(5) In this section, *vary* means increase or reduce.

[10] Section 106 Can approvals be amended?

Omit section 106 (4).

[11] Section 124 What orders may be given, in what circumstances and to whom?

10

Omit "or unsightly" from paragraph (c) in Column 2 of the matter relating to order No 1 in the Table to the section.

[12] Section 124, Table

Omit "or unsightly" from paragraph (b) in Column 2 of the matter relating to order No 3.

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[13] Section 131A

Insert after section 131:

131A Orders that make or are likely to make residents homeless

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- (1) If an order will or is likely to have the effect of making a resident homeless, the council must consider whether the resident is able to arrange satisfactory alternative accommodation in the locality.

- (2) If the person is not able to arrange satisfactory alternative accommodation in the locality, the council must provide the person with:
 - (a) information as to the availability of satisfactory alternative accommodation in the locality, and 5
 - (b) any other assistance that the council considers appropriate.

[14] Section 356 Can a council financially assist others?

Insert after section 356 (2):

- (3) However, public notice is not required if: 10
 - (a) the financial assistance is part of a specific program, and
 - (b) the program's details have been included in the council's draft management plan for the year in which the financial assistance is proposed to be given, and 15
 - (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and 20
 - (d) the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.

[15] Section 367 Notice of meetings

Insert after section 367 (2): 25

- (3) A notice under this section and the business paper relating to the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice and the business paper in that form.

[16] Sections 372–372B

Omit section 372. Insert instead:

372 Rescinding resolutions

- (1) A resolution passed by a council may not be rescinded except by a motion to that effect of which notice has been duly given in accordance with this section at the meeting at which the resolution was passed. 5
- (2) A notice of motion to rescind a resolution must be signed by 3 councillors. The motion may be moved only at the meeting that follows the meeting at which notice of the motion was given but may be adjourned at that following meeting for consideration at a subsequent meeting. 10
- (3) The person presiding at a meeting of a council:
 - (a) before the close of the meeting:
 - (i) must call for notice to be given of any motions to rescind a resolution passed at the meeting, and 15
 - (ii) must announce to those present at the meeting that if such notice is given, the resolution concerned will not be carried into effect until the motion of rescission has been dealt with, and 20
 - (iii) must allow a reasonable time for such notice to be given before the close of the meeting, and 25
 - (b) if such notice is given, must announce that fact to those present at the meeting and must do so when the meeting is open to the public (whether or not the meeting (or part of the meeting) has been closed to the public). 30
- (4) If notice of motion to rescind a resolution is given in accordance with this section, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- (5) This section applies to meetings of committees of councils of which all the members are councillors in the same way as it applies to meetings of councils. 35

- (6) This section does not limit the powers of a council under section 109, 152 or 153 to revoke or modify an approval or order.

372A Altering resolutions

- (1) A resolution passed by a council may not be altered except by a motion to that effect of which notice has been duly given in accordance with the council's code of meeting practice and this section. 5
- (2) A notice of motion to alter a resolution must be signed by 3 councillors if less than 3 months has elapsed since the resolution was passed. 10
- (3) A motion to alter a resolution that has the same effect as a motion to rescind the resolution may not be moved unless the requirements of section 372 have been complied with. 15
- (4) A motion to which this section applies may not be moved on the report of a committee of the council.
- (5) This section applies to meetings of committees of councils of which all the members are councillors in the same way as it applies to meetings of councils. 20
- (6) This section does not limit the powers of a council under section 109, 152 or 153 to revoke or modify an approval or order.

372B Negating of certain motions

- (1) If a council negatives: 25
- (a) a motion to alter a resolution, or
- (b) a motion having the same effect as a motion previously negated by the council,
- a motion having the same effect must not be considered by the council unless notice of it has been duly given in accordance with the council's code of meeting practice and this section. 30
- (2) Such a notice of motion must be signed by 3 councillors if less than 3 months has elapsed since the motion was negated. 35

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- (3) Such a motion may not be considered until 3 months has elapsed since the previous motion was negated. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- (4) A motion to which this section applies may not be moved on the report of a committee of the council. 5
- (5) This section applies to meetings of committees of councils of which all the members are councillors in the same way as it applies to meetings of councils.
- (6) This section does not apply to motions of adjournment. 10
- (7) This section does not limit the powers of a council under section 109, 152 or 153 to revoke or modify an approval or order.

[17] Section 377 General power of the council to delegate

Insert at the end of the section: 15

- (2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council. 20

[18] Section 378 Delegations by the general manager

Insert after section 378 (2):

- (3) Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377 (2).

[19] Section 496 Making and levying of annual charges for domestic waste management services 25

Insert at the end of the section:

- (2) A council may make an annual charge for the provision of a domestic waste management service for a parcel of land that is exempt from rating if: 30

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- (a) the service is available for that land, and
- (b) the owner of that land requests or agrees to the provision of the service to that land, and
- (c) the amount of the annual charge is limited to recovering the cost of providing the service to that land. 5

[20] Section 505 Application of Part

Insert after section 505 (a) (iii):

- (iv) annual charges referred to in section 611, and 10

[21] Section 509 Maximum general income for a year

Insert "or 511A" after "511" in section 509 (1).

[22] Section 511A

Insert after section 511:

511A Catching up of income lost due to reductions in valuation 15

- (1) This section applies to a council that cannot recover or retain a part of the maximum permissible general income determined under this Part for a year because, after the determination is made, a valuation used in making a rate is reduced on objection under Part 3, or appeal under Part 4, of the *Valuation of Land Act 1916*. The part of the maximum permissible general income that cannot be recovered or retained is referred to in this section as the **unrecovered amount**. 20 25
- (2) The council may increase the maximum permissible general income determined under this Part for a year by any unrecovered amount for a previous year.

[23] Section 512 Effect of contravening section 509, 510, 511 or 511A

Omit "or 511" wherever occurring in section 512 (1).

Insert instead ", 511 or 511A".

[24] Section 513 Estimates of increases and decreases in value for purposes of notional rate income

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Omit section 513 (1). Insert instead:

(1) A council may, at any time after 31 January in any year but before 31 May in that year, request the Valuer-General to provide:

(a) estimates of increases and decreases in values for parcels of rateable land for which supplementary valuations are required to be furnished under the *Valuation of Land Act 1916* but which, before the date of the request, have not been so furnished, and

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(b) estimates of increases and decreases in values for parcels of rateable land for which supplementary valuations have been or are required to be furnished under the *Valuation of Land Act 1916* but which have or will have a different base date from those used for rating purposes for that year because of a general valuation furnished in that year for the council's area.

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[25] Section 516 Categorisation as residential

Insert after section 516 (1):

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(1A) For the purposes of this section, a *boarding house* or a *lodging house* means a building wholly or partly let as lodging in which each letting provides the tariff-paying occupant with a principal place of residence and in which:

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(a) each tariff charged does not exceed the maximum tariff for boarding houses or lodging houses for the time being determined by the Minister by order published in the Gazette for the purposes of this subsection, and

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- (b) there are at least 3 tariff-paying occupants who have resided there for the last 3 consecutive months, or any period totalling 3 months during the last year,

and includes a vacant building that was so let immediately before becoming vacant, but does not include a residential flat building, licensed premises, a residential centre for handicapped persons licensed under the *Youth and Community Services Act 1973*, a private hotel, a building containing serviced apartments or a backpacker hostel or other tourist establishment.

[26] Sections 518A and 518B

Insert after section 518:

518A Strata lots and company titles taken to be separate parcels of land for categorisation 15

For the purposes of this Part:

- (a) each lot in a strata plan that is registered under the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*, and
- (b) each dwelling or portion of the kind referred to in section 547 (1), 20

is taken to be a separate parcel for the purposes of categorisation.

518B Mixed development land

(1) Definitions 25

In this section, *mixed development land* and *non-residential land* have the same meanings as in section 58C of the *Valuation of Land Act 1916*.

(2) Categorisation of parts of mixed development land

If a valuation is furnished under the *Valuation of Land Act 1916* for mixed development land: 30

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- (a) the part of the land that is non-residential land is taken to have been categorised as business, and
- (b) the part of the land that is not non-residential land is taken to have been categorised as residential, despite sections 515–518.

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(3) **Sub-categories**

The council may determine a sub-category for a part of land to which subsection (2) applies according to the category determined by that subsection for the part.

(4) **Apportionment of rates and charges**

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A rate, the base amount of a rate, or the minimum amount of a rate or of a charge, that is made and levied according to categories or sub-categories of land is to apply to a parcel of mixed development land according to the percentages represented by the apportionment factor for the parcel determined under section 58B of the *Valuation of Land Act 1916*.

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[27] Section 555 What land is exempt from all rates?

Insert after section 555 (1) (b):

- (b1) subject to subsection (3), land that is the subject of a conservation agreement (within the meaning of the *National Parks and Wildlife Act 1974*),

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[28] Section 555 (3)

Insert after section 555 (2):

- (3) If land to which subsection (1) (b1) applies comprises part of a single parcel of land for rating purposes, that part is exempt from all rates. However, rates may be made and levied on the other part of that parcel proportionately.

25

[29] Section 608 Council fees for services

Insert after section 608 (7):

- (8) An approved fee charged in connection with a service provided at an airport established and maintained by the council may be recovered from the holder of the certificate of registration issued under the *Civil Aviation Regulations* of the Commonwealth for the aircraft in respect of which the service was provided. This subsection applies whether or not the holder is the person to whom the service is actually provided. 5
10

[30] Section 610A

Insert after section 610:

610A Council may waive or reduce fees

- (1) A council may waive payment of, or reduce, an approved fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced. 15
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed approved fee under section 612 (2) or (3). 20

[31] Section 611 Annual charge on rails, pipes etc 25

Insert "but is not to be regarded as a rate for the purposes of calculating a council's general income under Part 2" after "rate" in section 611 (2).

[32] Section 628 Failure to comply with order

Omit "1-17" from section 628 (1). 30
Insert instead "1-3, 5-14 or 15A".

[33] Section 628 (1A)

Insert after section 628 (1):

- (1A) A person who fails to comply with an order given to the person under Part 2 of Chapter 7 that is an order in the terms of any of orders Nos 4, 15, 16 or 17 in the Table to section 124 is guilty of an offence. 5

Maximum penalty: 100 penalty units (in the case of an individual) or 200 penalty units (in the case of a corporation).

[34] Section 713 Sale of land for unpaid rates and charges 10

Omit section 713 (1) and (2). Insert instead:

- (1) For the purposes of this Division, a rate or charge is overdue if:
- (a) in the case of vacant land, it has remained unpaid for more than one year, or 15
 - (b) in the case of any other land, it has remained unpaid for more than 5 years,
- from the date on which it became payable.
- (2) A council may, in accordance with this Division:
- (a) sell any vacant land on which any rate or charge is overdue but only if: 20
 - (i) the council obtains a valuation of the land from the Valuer-General, and
 - (ii) the amount of unpaid rates or charges on the land exceeds the valuation, and 25
 - (iii) the council sells the land within 6 months after the date when the council received the valuation, or
 - (b) sell any other land on which any rate or charge is overdue. 30

[35] Section 732 Exemption from liability—accreditation and certification

Insert after section 732 (b):

, or

- (c) the council's receipt of a certificate issued in accordance with the certification procedure referred to in section 653B (Provision of certificate as to maintenance). 5

[36] Section 735A

Insert after section 735: 10

735A Certificate as to notices

- (1) A person may apply to a council for a certificate as to whether there are any outstanding notices issued by the council under this Act in respect of any land within the council's area. 15
- (2) The application must be in the approved form and be accompanied by the approved fee.
- (3) The council is to issue a certificate to the applicant stating:
 - (a) whether or not a notice is outstanding in respect of the land as at the date of the certificate and, if so, the terms of the notice, and 20
 - (b) any action proposed to be taken or that may be taken by the council in relation to the notice.
- (4) The production of the certificate is taken for all purposes to be conclusive proof of the existence or otherwise of any outstanding notices. 25

Note. *Notice* is defined in the Dictionary for this Act as including a notification, order, direction and demand.

[37] Schedule 7 Savings, transitional and other provisions consequent on the enactment of this Act

Insert after clause 32 in Part 5:

33 Maitland City Council

The number of councillors for the Maitland City Council for the term of office commencing next after the ordinary election in September 1999 is 13 despite: 5

- (a) the result of the constitutional referendum held by that Council in 1995 in relation to the number of councillors, and 10
- (b) sections 17 (1) and 224 (2) and (3).

[38] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of clause 1 (1):

Local Government Amendment Act 1997 15

[39] Schedule 8, Part 6

Insert after Part 5:

Part 6 Provisions consequent on enactment of Local Government Amendment Act 1997

22 Meaning of "amending Act" 20

In this Part, *amending Act* means the *Local Government Amendment Act 1997*.

23 Crown buildings

The amendments made to section 70 by Schedule 1 [2]–[4] to the amending Act are taken to have commenced on 1 July 1993. 25

24 Duration of existing approvals

Section 103 (5), as inserted by the amending Act, extends to an approval in force immediately before the commencement of that subsection.

25 Land exempt from rating

5

Section 496 (2) and section 555 (1) (b1) and (3), as inserted by the amending Act, do not apply to or in respect of a year commencing before 1 July 1997.

26 Catching up of income lost due to valuation reductions

Section 511A, as inserted by the amending Act, does not extend to an unrecovered amount (within the meaning of that section) for a rating year that commenced before 1 July 1996.

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Schedule 2 Amendment of other Acts

(Section 4)

2.1 Bush Fires Act 1949 No 31

[1] Section 27A

Insert after section 27:

5

27A Councillors not to be appointed under this Part

- (1) A councillor within the meaning of the *Local Government Act 1993* is not eligible to be appointed as a fire control officer or a deputy fire control officer.
- (2) Any fire control officer or deputy fire control officer who becomes a councillor ceases to be such an officer on the date that is 3 months after the date on which his or her election as a councillor takes effect unless the officer otherwise vacates his or her office as a fire control officer or deputy fire control officer. 10
- (3) A fire control officer or deputy fire control officer does not, by virtue of holding office as such an officer, hold an office or place of profit for the purposes of section 275 (2) of the *Local Government Act 1993*. 15

[2] Schedule 1A Savings and transitional provisions

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Insert after Part 3:

Part 4 Provision consequent on enactment of Local Government Amendment Act 1997

9 Certain fire control officers who are councillors to cease to hold office

25

- (1) A fire control officer or a deputy fire control officer who, immediately before the commencement of section 27A,

Local Government Amendment Bill 1997

Schedule 2 Amendment of other Acts

as inserted by the *Local Government Amendment Act 1997*, is a councillor ceases to be such an officer on the date that is 3 months after that commencement unless the officer otherwise vacates his or her office as a fire control officer or deputy fire control officer.

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- (2) Any such fire control officer or deputy fire control officer does not, by virtue of holding office as such an officer, hold an office or place of profit for the purposes of section 275 (2) of the *Local Government Act 1993* during those 3 months.

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- (3) In this clause, *councillor* has the same meaning as it has in the *Local Government Act 1993*.

2.2 Defamation Act 1974 No 18

[1] Section 17T

Insert after section 17S:

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17T Matters relating to the Local Government Pecuniary Interest Tribunal

There is a defence of absolute privilege for a publication to or by the Local Government Pecuniary Interest Tribunal constituted under the *Local Government Act 1993* if the publication is made for the purpose of the execution or administration of that Act.

20

[2] Schedule 2 Proceedings of public concern and official and public documents and records

Insert after clause 2 (21):

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- (22) without limiting the operation of any other subclause, proceedings of the Local Government Pecuniary Interest Tribunal under the *Local Government Act 1993*.

[3] Schedule 2, clause 3

Insert after clause 3 (6):

- (7) a document that consists of a decision (including reasons given for the decision) made by the Local Government Pecuniary Interest Tribunal under the *Local Government Act 1993*. 5

[4] Schedule 3 Savings and transitional provisions

Insert after Part 2:

**Part 3 Provision consequent on enactment of
Local Government Amendment Act 1997 10**

4 Local Government Pecuniary Interest Tribunal

An amendment made by Schedule 2.2 [1]–[3] to the *Local Government Amendment Act 1997* extends to a publication made before the commencement of the amendment. 15

2.3 Valuation of Land Act 1916 No 2

**[1] Section 7F Protected archaeological areas, wildlife districts,
wildlife refuges and game reserves**

Insert “or” at the end of section 7F (2) (c).

[2] Section 7F (2) (d) 20

Omit “or”.

[3] Section 7F (2) (e)

Omit the paragraph.

[4] Section 58C Definitions

Omit paragraph (d) of the definition of *residential land* in section 58C (1).

Insert instead:

- (d) a parcel of land occupied or used solely as 5
 the site of a boarding house or lodging
 house,

[5] Section 58C (1), definition of "residential land"

Omit "separate dwelling." from paragraph (g). Insert instead:

 separate dwelling, 10

 but does not include a parcel of land occupied or
 used solely as the site of a hotel, motel,
 guest-house, backpacker hostel, nursing home or
 other form of residential accommodation
 prescribed under section 516 (1) (a) of the *Local* 15
 Government Act 1993.

[6] Section 58C (3) (b)

Omit "guest-house or a boarding-house".

Insert instead "boarding house or a lodging house".

[7] Section 58C (3) 20

Omit "guest-house or boarding-house".

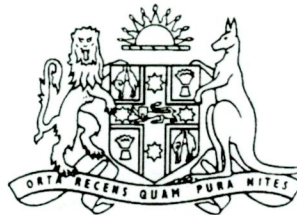
Insert instead "boarding house or lodging house".

[8] Section 58C (6), definition of "flat"

Insert "or a dwelling, or a portion of a building, under company title
that is rated in accordance with section 547 of the *Local Government* 25
Act 1993" after "lot".

[9] Section 58C (6), definition of "office"

Insert "but does not include a dwelling, or a portion of a building, under company title that is rated in accordance with section 547 of the *Local Government Act 1993*" after "purpose".



New South Wales

Local Government Amendment Act 1997 No 61

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New South Wales

Local Government Amendment Act 1997 No 61

Act No 61, 1997

An Act to amend the *Local Government Act 1993* with respect to council resolutions, rates and charges and in other miscellaneous respects; to amend the *Valuation of Land Act 1916* consequentially; to amend certain other Acts in respect of matters relating to local government; and for other purposes.
[Assented to 2 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment Act 1997*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.
- (2) Schedule 1 [22] and [26] commence or are taken to have commenced on 1 July 1997.
- (3) Schedule 1 [38] and [39] commence on the date of assent.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

Schedule 1 Amendment of Local Government Act 1993

(Section 3)

[1] Section 9 Public notice of meetings

Insert after section 9 (4):

- (5) A notice given under this section or a copy of a business paper made available under this section may in addition be given or made available in electronic form.

[2] Section 12 What information is publicly available?

Insert “, any variation from local policies with reasons for the variation,” after “records of approvals granted” in the 19th dot point in section 12 (1).

[3] Section 70 Compliance by the Crown with building standards

Omit section 70 (1). Insert instead:

- (1) This section applies to a building erected by or on behalf of the Crown or a person prescribed by the regulations if the erection of the building commences on or after 1 July 1993.

[4] Section 70 (2)

Insert “in force as at the date of the invitation for tenders to erect the building or, in the absence of tenders, the date on which the erection of the building commences” after “laws”.

[5] Section 70, note

Insert at the end of the section:

Note. Erection, in relation to a building, is defined in the Dictionary for this Act as including any structural work and any alteration, addition or rebuilding.

[6] Section 71 Use by the Crown of places of public entertainment

Insert after section 71 (6):

- (7) The Crown does not use a building or temporary structure for the purposes of this section if it is subject to a lease from the Crown to a person who is not or does not represent the Crown.

Note. *Building* is defined in the Dictionary for this Act to include part of a building and any structure or part of a structure, but not to include a moveable dwelling or associated structure or part of a moveable dwelling or associated structure.

[7] Section 82 Objections to application of regulations and local policies

Omit section 82 (3). Insert instead:

- (3) If the objection relates to the regulations and the council is satisfied that the objection is well founded, it may, with the concurrence of the Director-General, in determining the application, direct that:
- (a) such provisions of any regulation relating to that activity as are specified in the direction:
- (i) are not to apply, or
- (ii) are to apply with such modifications as are specified in the direction,
- in respect of the carrying out of that activity, or
- (b) such requirements as are specified in the direction are to apply to the carrying out of that activity,
- or give directions under both paragraphs (a) and (b).
- (3A) If the objection relates to a local policy adopted under Part 3 by the council and the council is satisfied that the objection is well founded, it may, in determining the application, direct that:

-
- (a) such provisions of any local policy relating to that activity as are specified in the direction:
- (i) are not to apply, or
 - (ii) are to apply with such modifications as are specified in the direction,
- in respect of the carrying out of that activity, or
- (b) such requirements as are specified in the direction are to apply to the carrying out of that activity,
- or give directions under both paragraphs (a) and (b) and the council must give the reasons for its direction or directions.

(3B) An objection is well founded for the purposes of subsection (3A) only if the council is satisfied that no person or the public interest will be adversely affected by the variation and that any variation is consistent with the principles of ecologically sustainable development.

[8] Section 82 (4)

Insert "or (3A)" after "(3)".

[9] Section 82 (4)

Omit "paragraph (a) (ii) or (b) of that subsection".

Insert instead "subsection (3) (a) (ii) or (b) or subsection (3A) (a) (ii) or (b)".

[10] Section 103 When does an approval lapse?

Insert after section 103 (4):

- (5) In this section, *vary* means increase or reduce.

[11] Section 106 Can approvals be amended?

Omit section 106 (4).

[12] Section 124 What orders may be given, in what circumstances and to whom?

Omit "or unsightly" from paragraph (c) in Column 2 of the matter relating to order No 1 in the Table to the section.

[13] Section 124, Table

Omit "or unsightly" from paragraph (b) in Column 2 of the matter relating to order No 3.

[14] Section 131A

Insert after section 131:

131A Orders that make or are likely to make residents homeless

- (1) If an order will or is likely to have the effect of making a resident homeless, the council must consider whether the resident is able to arrange satisfactory alternative accommodation in the locality.
- (2) If the person is not able to arrange satisfactory alternative accommodation in the locality, the council must provide the person with:
 - (a) information as to the availability of satisfactory alternative accommodation in the locality, and
 - (b) any other assistance that the council considers appropriate.

[15] Section 356 Can a council financially assist others?

Insert after section 356 (2):

- (3) However, public notice is not required if:
 - (a) the financial assistance is part of a specific program, and

-
- (b) the program's details have been included in the council's draft management plan for the year in which the financial assistance is proposed to be given, and
 - (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
 - (d) the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.

[16] Section 367 Notice of meetings

Insert after section 367 (2):

- (3) A notice under this section and the business paper relating to the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice and the business paper in that form.

[17] Section 377 General power of the council to delegate

Insert at the end of the section:

- (2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council.

[18] Section 378 Delegations by the general manager

Insert after section 378 (2):

- (3) Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377 (2).

[19] Section 496 Making and levying of annual charges for domestic waste management services

Insert at the end of the section:

- (2) A council may make an annual charge for the provision of a domestic waste management service for a parcel of land that is exempt from rating if:
 - (a) the service is available for that land, and
 - (b) the owner of that land requests or agrees to the provision of the service to that land, and
 - (c) the amount of the annual charge is limited to recovering the cost of providing the service to that land.

[20] Section 505 Application of Part

Insert after section 505 (a) (iii):

- (iv) annual charges referred to in section 611, and

[21] Section 509 Maximum general income for a year

Insert "or 511A" after "511" in section 509 (1).

[22] Section 511A

Insert after section 511:

511A Catching up of income lost due to reductions in valuation

- (1) This section applies to a council that cannot recover or retain a part of the maximum permissible general income determined under this Part for a year because, after the determination is made, a valuation used in making a rate is reduced on objection under Part 3, or appeal under Part 4, of the *Valuation of Land Act 1916*. The part of the maximum permissible general income that cannot be recovered or retained is referred to in this section as the ***unrecovered amount***.

- (2) The council may increase the maximum permissible general income determined under this Part for a year by any unrecovered amount for a previous year.

[23] Section 512 Effect of contravening section 509, 510, 511 or 511A

Omit "or 511" wherever occurring in section 512 (1).

Insert instead ", 511 or 511A".

[24] Section 513 Estimates of increases and decreases in value for purposes of notional rate income

Omit section 513 (1). Insert instead:

- (1) A council may, at any time after 31 January in any year but before 31 May in that year, request the Valuer-General to provide:
- (a) estimates of increases and decreases in values for parcels of rateable land for which supplementary valuations are required to be furnished under the *Valuation of Land Act 1916* but which, before the date of the request, have not been so furnished, and
 - (b) estimates of increases and decreases in values for parcels of rateable land for which supplementary valuations have been or are required to be furnished under the *Valuation of Land Act 1916* but which have or will have a different base date from those used for rating purposes for that year because of a general valuation furnished in that year for the council's area.

[25] Section 516 Categorisation as residential

Insert after section 516 (1):

- (1A) For the purposes of this section, a ***boarding house*** or a ***lodging house*** means a building wholly or partly let as lodging in which each letting provides the tariff-paying occupant with a principal place of residence and in which:

- (a) each tariff charged does not exceed the maximum tariff for boarding houses or lodging houses for the time being determined by the Minister by order published in the Gazette for the purposes of this subsection, and
- (b) there are at least 3 tariff-paying occupants who have resided there for the last 3 consecutive months, or any period totalling 3 months during the last year,

and includes a vacant building that was so let immediately before becoming vacant, but does not include a residential flat building, licensed premises, a private hotel, a building containing serviced apartments or a backpacker hostel or other tourist establishment.

[26] Sections 518A and 518B

Insert after section 518:

518A Strata lots and company titles taken to be separate parcels of land for categorisation

For the purposes of this Part:

- (a) each lot in a strata plan that is registered under the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*, and
- (b) each dwelling or portion of the kind referred to in section 547 (1),

is taken to be a separate parcel for the purposes of categorisation.

518B Mixed development land

(1) Definitions

In this section, *mixed development land* and *non-residential land* have the same meanings as in section 58C of the *Valuation of Land Act 1916*.

(2) **Categorisation of parts of mixed development land**

If a valuation is furnished under the *Valuation of Land Act 1916* for mixed development land:

- (a) the part of the land that is non-residential land is taken to have been categorised as business, and
 - (b) the part of the land that is not non-residential land is taken to have been categorised as residential,
- despite sections 515–518.

(3) **Sub-categories**

The council may determine a sub-category for a part of land to which subsection (2) applies according to the category determined by that subsection for the part.

(4) **Apportionment of rates and charges**

A rate, the base amount of a rate, or the minimum amount of a rate or of a charge, that is made and levied according to categories or sub-categories of land is to apply to a parcel of mixed development land according to the percentages represented by the apportionment factor for the parcel determined under section 58B of the *Valuation of Land Act 1916*.

[27] Section 555 What land is exempt from all rates?

Insert after section 555 (1) (b):

- (b1) subject to subsection (3), land that is the subject of a conservation agreement (within the meaning of the *National Parks and Wildlife Act 1974*),

[28] Section 555 (3)

Insert after section 555 (2):

- (3) If land to which subsection (1) (b1) applies comprises part of a single parcel of land for rating purposes, that part is exempt from all rates. However, rates may be made and levied on the other part of that parcel proportionately.

[29] Section 608 Council fees for services

Insert after section 608 (7):

- (8) An approved fee charged in connection with a service provided at an airport established and maintained by the council may be recovered from the holder of the certificate of registration issued under the *Civil Aviation Regulations* of the Commonwealth for the aircraft in respect of which the service was provided. This subsection applies whether or not the holder is the person to whom the service is actually provided.

[30] Section 610A

Insert after section 610:

610A Council may waive or reduce fees

- (1) A council may waive payment of, or reduce, an approved fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed approved fee under section 612 (2) or (3).

[31] Section 611 Annual charge on rails, pipes etc

Insert "but is not to be regarded as a rate for the purposes of calculating a council's general income under Part 2" after "rate" in section 611 (2).

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Omit "1-17" from section 628 (1).
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Insert after section 628 (1):

- (1A) A person who fails to comply with an order given to the person under Part 2 of Chapter 7 that is an order in the terms of any of orders Nos 4, 15, 16 or 17 in the Table to section 124 is guilty of an offence.

Maximum penalty: 100 penalty units (in the case of an individual) or 200 penalty units (in the case of a corporation).

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Omit section 713 (1) and (2). Insert instead:

- (1) For the purposes of this Division, a rate or charge is overdue if:
- (a) in the case of vacant land, it has remained unpaid for more than one year, or
 - (b) in the case of any other land, it has remained unpaid for more than 5 years,
- from the date on which it became payable.
- (2) A council may, in accordance with this Division:
- (a) sell any vacant land on which any rate or charge is overdue but only if:
 - (i) the council obtains a valuation of the land from the Valuer-General, and
 - (ii) the amount of unpaid rates or charges on the land exceeds the valuation, and
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Insert after section 732 (b):

, or

- (c) the council's receipt of a certificate issued in accordance with the certification procedure referred to in section 653B (Provision of certificate as to maintenance).

[36] Section 735A

Insert after section 735:

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- (1) A person may apply to a council for a certificate as to whether there are any outstanding notices issued by the council under this Act in respect of any land within the council's area.
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- (3) The council is to issue a certificate to the applicant stating:
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 - (b) any action proposed to be taken or that may be taken by the council in relation to the notice.
- (4) The production of the certificate is taken for all purposes to be conclusive proof of the existence or otherwise of any outstanding notices.

Note. *Notice* is defined in the Dictionary for this Act as including a notification, order, direction and demand.

[37] Schedule 7 Savings, transitional and other provisions consequent on the enactment of this Act

Insert after clause 32 in Part 5:

33 Maitland City Council

The number of councillors for the Maitland City Council for the term of office commencing next after the ordinary election in September 1999 is 13 despite:

- (a) the result of the constitutional referendum held by that Council in 1995 in relation to the number of councillors, and
- (b) sections 17 (1) and 224 (2) and (3).

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Insert at the end of clause 1 (1):

Local Government Amendment Act 1997

[39] Schedule 8, Part 6

Insert after Part 5:

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22 Meaning of "amending Act"

In this Part, *amending Act* means the *Local Government Amendment Act 1997*.

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Section 496 (2) and section 555 (1) (b1) and (3), as inserted by the amending Act, do not apply to or in respect of a year commencing before 1 July 1997.

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Section 511A, as inserted by the amending Act, does not extend to an unrecovered amount (within the meaning of that section) for a rating year that commenced before 1 July 1996.

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(Section 4)

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- (1) A councillor within the meaning of the *Local Government Act 1993* is not eligible to be appointed as a fire control officer or a deputy fire control officer.
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9 Certain fire control officers who are councillors to cease to hold office

- (1) A fire control officer or a deputy fire control officer who, immediately before the commencement of section 27A,

as inserted by the *Local Government Amendment Act 1997*, is a councillor ceases to be such an officer on the date that is 3 months after that commencement unless the officer otherwise vacates his or her office as a fire control officer or deputy fire control officer.

- (2) Any such fire control officer or deputy fire control officer does not, by virtue of holding office as such an officer, hold an office or place of profit for the purposes of section 275 (2) of the *Local Government Act 1993* during those 3 months.
- (3) In this clause, *councillor* has the same meaning as it has in the *Local Government Act 1993*.

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Insert after section 17S:

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There is a defence of absolute privilege for a publication to or by the Local Government Pecuniary Interest Tribunal constituted under the *Local Government Act 1993* if the publication is made for the purpose of the execution or administration of that Act.

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Insert after clause 2 (21):

- (22) without limiting the operation of any other subclause, proceedings of the Local Government Pecuniary Interest Tribunal under the *Local Government Act 1993*.

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Insert after clause 3 (6):

- (7) a document that consists of a decision (including reasons given for the decision) made by the Local Government Pecuniary Interest Tribunal under the *Local Government Act 1993*.

[4] Schedule 3 Savings and transitional provisions

Insert after Part 2:

**Part 3 Provision consequent on enactment of
Local Government Amendment Act 1997**

4 Local Government Pecuniary Interest Tribunal

An amendment made by Schedule 2.2 [1]–[3] to the *Local Government Amendment Act 1997* extends to a publication made before the commencement of the amendment.

2.3 Valuation of Land Act 1916 No 2

**[1] Section 7F Protected archaeological areas, wildlife districts,
wildlife refuges and game reserves**

Insert “or” at the end of section 7F (2) (c).

[2] Section 7F (2) (d)

Omit “or”.

[3] Section 7F (2) (e)

Omit the paragraph.

[4] Section 58C Definitions

Omit paragraph (d) of the definition of *residential land* in section 58C (1).

Insert instead:

- (d) a parcel of land occupied or used solely as the site of a boarding house or lodging house,

[5] Section 58C (1), definition of "residential land"

Omit "separate dwelling." from paragraph (g). Insert instead:

separate dwelling,

but does not include a parcel of land occupied or used solely as the site of a hotel, motel, guest-house, backpacker hostel, nursing home or other form of residential accommodation prescribed under section 516 (1) (a) of the *Local Government Act 1993*.

[6] Section 58C (3) (b)

Omit "guest-house or a boarding-house".

Insert instead "boarding house or a lodging house".

[7] Section 58C (3)

Omit "guest-house or boarding-house".

Insert instead "boarding house or lodging house".

[8] Section 58C (6), definition of "flat"

Insert "or a dwelling, or a portion of a building, under company title that is rated in accordance with section 547 of the *Local Government Act 1993*" after "lot".

[9] Section 58C (6), definition of “office”

Insert “but does not include a dwelling, or a portion of a building, under company title that is rated in accordance with section 547 of the *Local Government Act 1993*” after “purpose”.

[Minister's second reading speech made in—
Legislative Assembly on 28 May 1997
Legislative Council on 23 June 1997]

BY AUTHORITY

