

LEGISLATIVE COUNCIL

Read 1^o 9 June 1982

(Brought from the Legislative Assembly)

A BILL

for

An Act to amend the *Local Government Act 1958*,
the *Town and Country Planning Act 1961*, the *Local
Government (Further Amendment) Act 1981*, the *Building
Control Act 1981* and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is to
5 say):

1. (1) This Act may be cited as the *Local Government (General
Amendment) Act 1982*. Short title.

(2) In this Act the *Local Government Act 1958* is referred to as
the Principal Act.

Principal Act
No. 6299.
Reprinted to
No. 8781.
Subsequently
amended by
Nos. 8794,
8811, 8862, 8875,
8893, 8958, 8970,
9019, 9022, 9078,
9079, 9116, 9126,
9129, 9143, 9148,
9159, 9162, 9178,
9180, 9182, 9212,
9224, 9225, 9254,
9283, 9354, 9356,
9385, 9390, 9402,
9425, 9512, 9537,
9539, 9544, 9552,
9567, 9573, 9574,
9575, 9576, 9590,
9658, 9667, 9684,
9699 and 9720.

**Commence-
ment.**

(3) The several provisions of this Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

**Amendment of
No. 6299
s. 8 (1).**

2. In section 8 (1) of the Principal Act the words “with the approval of the Governor in Council” shall be repealed. 5

**Amendment of
No. 6299.
New section
68A inserted.
No election
required where
only one
candidate.**

3. After section 68 of the Principal Act there shall be inserted the following section:

“68A. Where there is only one candidate at any election of a chairman of any municipality or of any committee or of any meeting that candidate shall be deemed to have been duly elected.” 10

**Amendment of
No. 6299
s. 132 (3).
Polling booths.**

4. In section 132 (3) for the word “thousand” there shall be substituted the words “one thousand five hundred”.

**Amendment of
No. 6299
s. 137.
Scrutineers.**

5. (1) Section 137 of the Principal Act shall be amended as follows: 15

(a) For the expression “137. Each” there shall be substituted the expression—

“137. (1) Subject to sub-section (2), each”;

(b) For the words “or other person and” there shall be substituted the expression “or other person appointed pursuant to section 136 and”; and 20

(c) At the end of the section there shall be inserted the following sub-section:

“(2) A candidate shall not be entitled to act as a scrutineer for himself or on behalf of any other candidate.” 25

**Amendment of
No. 6299
s. 143 (1).**

(2) In section 143 (1) of the Principal Act the words “candidate or” shall be repealed.

**Amendment of
No. 6299
s. 160 (3).**

6. For section 160 (3) of the Principal Act there shall be substituted the following sub-section: 30

“(3) Where the council—

(a) orders an inquiry to consider the removal discharge or termination of the employment of an officer referred to in sub-section (1); or

(b) suspends an officer referred to in sub-section (1)— 35

the council shall state its reasons in writing.”

**Amendment of
No. 6299
s. 173 (5).**

7. In section 173 (5) of the Principal Act after the words “provisions of” there shall be inserted the expression “sections 14 to 16 of”.

8. (1) In

8. (1) In the Principal Act, immediately preceding section 179 there shall be inserted the following section:

Amendment of No. 6299. New section 178 inserted. Notice of meeting to be in writing.

5 “178. Unless express provision is made to the contrary in this Part, any notice of a meeting of the council under this Part shall be given in writing to each of the councillors by the municipal clerk or by another officer of the council authorized generally or specifically for that purpose by the council.”.

(2) For section 182 (3) of the Principal Act there shall be substituted the following sub-section:

Amendment of No. 6299 s. 182 (3) substituted.

10 “(3) Except where any meeting is adjourned to a subsequent hour on the same day, notice of such adjourned meeting and of the time to which such meeting has been adjourned shall be given pursuant to section 178.”.

(3) In section 1 of the Principal Act in the table of contents—

Amendment of No. 6299 s. 1. Consequential.

15 (a) in the part relating to Part V.—

(i) for the expression “ss. 158–178.” there shall be substituted the expression “ss. 158–175.”; and

(ii) for the expression “ss. 168–178.” there shall be substituted the expression “ss. 168–175.”; and

20 (b) in the part relating to Part VI. for the expression “ss. 179–196.” there shall be substituted the expression “ss. 178–196.”.

9. In section 187 (2) of the Principal Act for the expression “liable to a penalty of not more than \$40” there shall be substituted the words “guilty of an offence against this Act”.

Amendment of No. 6299 s. 187 (2).

10. (1) After section 182 (3) of the Principal Act there shall be inserted the following sub-section:

Amendment of No. 6299 s. 182.

30 “(4) Notice of the adjournment of a meeting under sub-section (3) shall be deemed to be a call of the council for the purposes of section 188 (1).”.

(2) For section 188 of the Principal Act there shall be substituted the following section:

Amendment of No. 6299 s. 188 substituted.

35 “188. (1) Where any councillors refuse or neglect to attend or to remain in attendance at a meeting of the council which is called pursuant to section 182 (2) or 187 so that a quorum of the council cannot be formed or maintained, the clerk of the municipality shall forthwith advise the Minister in writing of that refusal or neglect.

Ouster from office of councillor who refuses or neglects to attend council meetings.

40 (2) The Minister shall advise the councillor and the council that he has received notification pursuant to sub-section (1) and that any submissions may be made to him within fourteen days or such further period as the Minister may specify.

(3) The

(3) The Minister may—

(a) after considering any submissions made to him by the councillor and the council; and

(b) if he is not satisfied that the councillor had a reasonable excuse for that failure or neglect—

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order that the councillor is from the date specified in the order incapable of being or continuing to be a councillor and the Minister shall send a copy of the order to the clerk of the municipality and the councillor.

(4) The councillor referred to in the order made under sub-section (3) shall from the date specified in the order be incapable of being or continuing to be a councillor.

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(5) The Minister may after the date specified in the order made under sub-section (3) apply to the Supreme Court to have that councillor ousted from office.”

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Amendment of No. 6299 s. 156 (1). Consequential.

(3) In section 156 (1) of the Principal Act after the words “on the application” there shall be inserted the words “of the Minister or”.

Amendment of No. 6299 s. 197 (1). Purposes for which by-laws may be made.

11. In section 197 (1) of the Principal Act after paragraph (xia) there shall be inserted the following paragraphs:

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“(xib) Controlling and regulating building and construction operations to prevent objectionable noises at unreasonable times;

(xic) Regulating the times during which incinerators may be used on property used wholly or partly for residential purposes.”.

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Amendment of No. 6299 s. 197 (9). substituted.

Approval of Governor in Council required in respect of certain by-laws.

12. For section 197 (9) of the Principal Act there shall be substituted the following sub-section:

“(9) All by-laws made under—

(a) paragraph (xviiia);

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(b) sub-paragraph (g) of paragraph (xxxi);

(c) sub-paragraph (a) of paragraph (xxxviii); or

(d) paragraph (xliia)—

of sub-section (1) shall be subject to the approval of the Governor in Council.”.

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Amendment of No. 6299 s. 239 (2). Power to convey land to Crown, &c.

13. In section 239 (2) (a) of the Principal Act after the words “Minister of Education” there shall be inserted the words “or to any public statutory body which is constituted under the law of Victoria or in trustees appointed pursuant to an Act of the Parliament of Victoria to hold the land on trust for public or municipal purposes”.

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14. Section 240A of the Principal Act shall be amended as follows: Amendment of No. 6299 s. 240A.

(a) In sub-section (1) the words "with the consent of the Governor in Council" shall be repealed;

(b) In sub-section (2) for the words "Before any application is made to the Governor in Council by the council of a municipality" there shall be substituted the words "Before the council of a municipality uses the land or the part of the land in question for some other purpose for which the municipality is authorized to hold land"; and

(c) Sub-sections (3) and (4) shall be repealed.

15. In section 251 (1) (e) of the Principal Act after sub-paragraph (iv) there shall be inserted the following word and sub-paragraph: Amendment of No. 6299. Non-rateable property.

"or

(v) the Australian Legion of Ex-Servicemen and Women (Victorian Branch)."

16. After section 290 of the Principal Act there shall be inserted the following section: Amendment of No. 6299.

"290A. (1) During the currency of any separate rate, whether made before or after the commencement of section 16 of the *Local Government (General Amendment) Act 1982*, the council may—

(a) with the approval of the Governor in Council; and

(b) if it is satisfied that because of a substantial change in circumstances the works or undertakings or part thereof or the purchase of land required for that purpose in respect of which the separate rate is levied should not be proceeded with—

discontinue the works or undertakings or part thereof or the purchase of land required for that purpose.

(2) Where the council proposes to discontinue the works or undertakings or part thereof or the purchase of land required for that purpose in respect of which a separate rate is levied, the council shall give to the owners and occupiers of all properties in respect of which the separate rate is levied notice of its intention to apply to the Governor in Council for approval of the proposal.

(3) Any person served with a notice pursuant to sub-section (2) may within fourteen days after the service upon him of the notice forward to the municipal office objection in writing to the proposal of the council.

(4) After the expiry of time for lodging objections, the council shall consider all objections received and may—

(a) withdraw the proposal; or

(b) proceed

(b) proceed with the proposal by forwarding to the Minister an application in writing for the approval of the Governor in Council to the proposal and the objections or copies thereof received by the council.

(5) The Governor in Council may approve an application pursuant to sub-section (4) subject to such conditions as he considers appropriate.”

Amendment of No. 6299 s. 319, substituted. Alteration of basis of rating.

17. (1) For section 319 of the Principal Act there shall be substituted the following section:

“319. The council of a municipality may by a determination as provided in section 320 or by a proposal for the purpose carried at a poll—

- (a) rescind the adoption of the use of site value of rateable property for the levying of rates in whole or in part;
- (b) change the basis of the levying of rates from the use of site value of rateable property to the use of site value of rateable property with respect to a specified percentage of the estimated revenue from such rates and of net annual value of rateable property with respect to the remainder of such revenue;
- (c) alter the percentages of the total rates which may be levied on net annual value of rateable property and site value of rateable property respectively;
- (d) change the basis of levying rates from the use of site value of rateable property with respect to a specified percentage of total rates and of net annual value of rateable property with respect to the remainder to the use of net annual value of rateable property; or
- (e) change the basis of levying rates from the use of site value of rateable property with respect to a specified percentage of total rates and of net annual value of rateable property with respect to the remainder to the use of site value of rateable property.”

Amendment of No. 6299 s. 320 (1). Consequential.

(2) In section 320 (1) of the Principal Act the expression “paragraph (a) of” shall be repealed.

Amendment of No. 6299 s. 386. Rates of interest on unpaid rates.

18. (1) In section 386 (1) (a) of the Principal Act for the expression “section 21” there shall be substituted the expression “section 28”.

(2) In section 386 of the Principal Act sub-section (5) shall be repealed.

Amendment of No. 6299 s. 386A.

19. In section 386A of the Principal Act for the words “fourteen days” (where twice occurring) there shall be substituted the expression “twenty-one days”.

20. In

20. In section 520 (1) of the Principal Act—

(a) for the words “the Governor in Council at any time and from time to time upon the request of the council of any municipality” there shall be substituted the words “the council of any municipality at any time and from time to time”; and

(b) after the word “accordingly” there shall be inserted the words “and shall from the date of such notice operate as a dedication to the public of the land referred to in the notice as a public street and highway”.

Amendment of
No. 6299
s. 520 (1).
Declaring
breadth of
carriage and
footways.

21. In section 523 of the Principal Act sub-section (2) shall be repealed.

Amendment of
No. 6299
s. 523 (2).
Width of new
roads.

22. In section 535 of the Principal Act for sub-sections (4) and (4A) there shall be substituted the following sub-sections:

Amendment of
No. 6299
s. 535.

“(4) The council of a municipality may by resolution change the name of any park street or road within its municipal district if it has—

Ss. (4) and
(4A)
substituted.
Change of
street name.

(a) not less than one month before the date of the resolution—

(i) published a notice of its intention in a newspaper circulating generally in the municipal district; and
(ii) given notice of its intention in writing to every occupier of any premises in the street or road; and

(b) considered all objections to the proposed change of name from occupiers of any premises in the street or road received by the council within twenty-eight days of the giving of notice under paragraph (a) (ii).

(4A) The council of a municipality shall after making a resolution pursuant to sub-section (4) publish a notice in the *Government Gazette* showing the old name and the new name of the street or road.”.

Notice of
change of
street name.

23. In section 555 (1) of the Principal Act—

(a) after paragraph (i) there shall be inserted the following paragraph:

“(ia) subject to such conditions as it thinks fit, permit any person to leave receptacles exceeding a capacity of 2 cubic metres for the reception and collection of litter and waste, and to fix fees to be paid for the granting of any such permit;” and

(b) after paragraph (m) there shall be inserted the following paragraph:

“(n) subject to such conditions as it thinks fit, permit the placement of movable boards, signs or hoardings

Amendment of
No. 6299
s. 555.

for

for the purpose of advertising, and to fix fees to be paid for the granting of any such permit.”.

Amendment of
No. 6299
s. 555A.

24. Section 555A of the Principal Act shall be amended as follows:

- (a) In sub-section (5F)—
- (i) for the words “Any person” there shall be substituted the expression “Except as otherwise provided in sub-section (7A), any person”;
- (ii) for the expression “for a period longer than is so fixed (which period)” there shall be substituted the expression “for a period longer than the period fixed in relation to the parking area (which latter period”); and
- (iii) in paragraph (b) for the word “during” there shall be substituted the word “for”;
- (b) In sub-section (6) (a) before the words “leaves any vehicle” there shall be inserted the expression “except as otherwise provided in sub-section (7A)”;
- (c) In sub-section (7) for the expression “the last preceding sub-section” there shall be substituted the expression “sub-section (5F) or (6)”;
- (d) After sub-section (7) there shall be inserted the following sub-sections:
- “(7A) A disabled person may leave a vehicle standing in any parking area on any day during the hours fixed in relation to that parking area for a period not longer than twice the period that is so fixed if—
- (a) there is displayed on the front windscreen of the vehicle a special permit in the prescribed form issued in respect of that vehicle; and
- (b) where a fee is fixed in respect of the parking area, the disabled person has paid the fee for the fixed period.
- (7B) A disabled person may make application in the prescribed form to any council of a municipality (including the city of Melbourne and the city of Geelong) for a special permit referred to in sub-section (7A).”.

Parking by
disabled
persons.

Amendment of
No. 6299
s. 582.
Payment by
instalments.

25. Section 582 of the Principal Act shall be amended as follows:

- (a) In sub-section (1A) for paragraph (a) there shall be substituted the following paragraph:
- “(a) by quarterly instalments of principal together with interest (as from one month after the date of the commencement of the works *in situ*) on the balance for the time being remaining unpaid calculated at a rate fixed by the council—
- (i) which

- (i) which shall not exceed ten per centum per annum; or
- (ii) where the council has borrowed the money for the works, which shall not exceed by more than one per centum the highest rate of interest being paid for the time being in respect of any advance or loan obtained for the works— and the council may from time to time vary the rate of interest but so as not to exceed the appropriate rate specified in sub-paragraph (i) or (ii);” and
- (b) Sub-section (1B) shall be repealed.

26. In section 648 (1) the words “with the consent of the Governor in Council” shall be repealed.

Amendment of No. 6299 s. 648 (1). Floods.

27. (1) The Principal Act shall be amended as follows:
- (a) In section 98 for the expression “40 cents (\$0.40)” there shall be substituted the words “the prescribed fee”;
- (b) In sections 126, 154 (1) (a) and 155 (2) (a) (i) for the expression “the sum of \$50” (wherever occurring) there shall be substituted the words “the prescribed deposit”;
- (c) In sections 154 (8) (a) and 155 (9) (a) for the expression “the sum of \$40” (wherever occurring) there shall be substituted the words “the prescribed sum of money”;
- (d) In section 157 (1) for the expression “the sum of \$40” there shall be substituted the words “the prescribed deposit”;
- (e) In section 200A for the expression “\$10” there shall be substituted the words “the prescribed fee”;
- (f) In section 207 (d) for the expression “the sum of \$1” there shall be substituted the words “the prescribed fee”;
- (g) In section 232 (1) for the expression “the sum of \$30” there shall be substituted the words “the prescribed deposit”;
- (h) In section 324—
- (i) in sub-section (2) for the expression “a sum of \$150 which sum” there shall be substituted the words “the prescribed deposit which”; and
- (ii) in sub-sections (3) and (4) for the expression “sum of \$150” (wherever occurring) there shall be substituted the words “prescribed deposit”;

Amendment of No. 6299. Fees and deposits to be prescribed.

(i) In

- (i) In sections 401 (1) and 403 (1) for the expression “the sum of \$100” (wherever occurring) there shall be substituted the words “the prescribed deposit”;
- (j) In section 403 (2) for the words “said sum” there shall be substituted the words “prescribed deposit”; 5
- (k) In section 494 (1) for the expression “\$100” there shall be substituted the words “the prescribed deposit”;
- (l) In section 555A (1) (b) for the expression “Ninety cents (\$0.90) for one day or fifty cents (\$0.50) for any fixed period less than one day” there shall be substituted the expression “the prescribed fee for one day or the prescribed fee for any fixed period less than one day”; 10
- (m) In section 555A (1) (c) for the expression “\$50” there shall be substituted the words “the prescribed fee”;
- (n) In section 555C (3) for the expression “(not exceeding \$100) together with an additional \$4” there shall be substituted the expression “(not exceeding the prescribed fee) together with the additional prescribed fee”; 15
- (o) In section 682 (1) for the expression “a fee of fifty cents (\$0.50)” there shall be substituted the expression “the prescribed fee”; and 20
- (p) In section 696 (2) (a) for the expression “such fees, not in any case exceeding \$10,” there shall be substituted the word “fees”.

Amendment of No. 6299, Division 4 of Part XLVII, substituted.

- (2) In Part XLVII. of the Principal Act for Division 4 there shall be substituted the following Division: 25

“DIVISION 4—REGULATIONS

Governor in Council may make regulations.

898. (1) The Governor in Council may make regulations for or with respect to—

- (a) prescribing the form of any notice or order which any council of any municipality is authorized to give or make under any Act; 30
- (b) prescribing any matter or thing required to be prescribed pursuant to the provisions of Division 2 of Part II.;
- (c) prescribing fees authorized to be prescribed by this Act; 35
- (d) prescribing deposits and sums of money authorized to be prescribed by this Act;
- (e) prescribing the form of a special permit and the form of application for such a permit pursuant to sub-sections (7A) and (7B) of section 555A; and 40
- (f) prescribing the form of applications and certificates and prescribing fees to be forwarded with such applications for the purposes of Part XLVIA.

(2) Any

(2) Any form prescribed pursuant to paragraph (a) of sub-section (1) or any form to the like effect varied as the circumstances of the case may require shall be good and binding in law and no objection shall be taken by any person thereto.

5 (3) Where any form is prescribed under this Act, substantial compliance therewith shall be sufficient for the purposes of this Act.

(4) Regulations made pursuant to paragraph (f) of sub-section (1) may—

- 10 (a) prescribe a composite form of application for more than one or for all the certificates referred to in Part XLVIA.;
- (b) prescribe a composite form of certificate for more than one or for all the matters in respect of which a certificate may be obtained pursuant to Part XLVIA.; and
- 15 (c) prescribe a composite fee in respect of a composite application.

(5) Notwithstanding anything in any Act the provisions of this Division and of any regulations made under this Division shall extend and apply to the city of Melbourne and the city of Geelong.”.

(3) The Principal Act shall be amended as follows:

20 (a) In section 1 in the table of contents in the part relating to Part XLVII.—

Amendment of No. 6299. Consequential amendments.

- 25 (i) for the expression “Legal Proceedings and Enforcement of Act,” there shall be substituted the expression “Legal Proceedings, Enforcement of Act and Power to make Regulations,”; and
- (ii) for the expression “Power to prescribe Forms,” there shall be substituted the expression “Regulations,”;

(b) In section 3 (1) after the interpretation of “Part” there shall be inserted the following interpretation:

30 ““Prescribed” means prescribed by regulations made pursuant to Division 4 of Part XLVII.”; and

“Prescribed.”

35 (c) In Part XLVII. in the heading for the words “AND ENFORCEMENT OF ACT” there shall be substituted the expression “, ENFORCEMENT OF ACT AND POWER TO MAKE REGULATIONS”.

28. (1) In the Principal Act after Part XLVI. there shall be inserted the following Part:

Amendment of No. 6299. New Part XLVIA. inserted.

“PART XLVIA.—CERTIFICATES

40 861A. (1) Any person may upon payment of the prescribed fee make application in the prescribed form to the municipal clerk

Certificates.

of

of a municipality for any of the following certificates which shall be in the prescribed form—

Valuation certificate.

- (a) a certificate of the most recent valuation of any rateable property in the municipality made under Division 2 of Part X, specifying the date as at which the value of the property was assessed pursuant to section 7 (2) of the *Valuation of Land Act 1960*; 5

Rate certificate.

- (b) a certificate giving particulars of—
- (i) the rates and other moneys due and payable in respect of any property; 10
 - (ii) any notice in respect of works proposed to be carried out pursuant to Division 10 or Division 11 of Part XIX, or Division 5 of Part XXI, which has been served on the owner of such property by the council of the municipality; and 15
 - (iii) whether or not the property is presently liable to become charged in the future with a liability by the operation of section 251 (6) or 266 (7) of this Act or of section 4 (5) of the *Cultural and Recreational Lands Act 1963*; 20

Certificate as to recreational lands contribution.

- (c) a certificate showing—
- (i) whether or not any request and if so what request has at any time been made by the council to the owner of the land specified in the certificate pursuant to section 569B (8A); 25
 - (ii) whether any variation and if so what variation has been made in any request pursuant to an order of the Planning Appeals Board pursuant to section 570; and
 - (iii) whether or not and if so to what extent any request has been complied with; 30

Status of streets certificate.

- (d) a certificate showing in respect of the street or streets on which the property abuts—
- (i) whether or not such street has or streets have been constructed pursuant to Division 10 of Part XIX, or Part XLII, or any corresponding previous enactment; 35
 - (ii) whether or not any works (and, if so, what works) have been carried out in such street or streets pursuant to section 588; 40
 - (iii) whether or not such street has or streets have been fully constructed pursuant to section 569E or any corresponding previous enactment; and
 - (iv) whether or not the street has or streets have been partly constructed pursuant to section 569E or 45

any

any corresponding previous enactment and, if so, what works have been executed;

(e) a certificate stating—

Water drainage certificate.

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(i) (where the land or part thereof would be affected thereby) whether the council has received from the Dandenong Valley Authority a copy of any notice under section 22 of the *Dandenong Valley Authority Act* 1963 or notification of the prescription of any building line under section 24 of that Act or notification of any proclamation under section 27 of that Act;

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(ii) whether any land is affected by an approved scheme under Division 8 of Part XXI. and, if so, whether the provisions of section 656B relating to drainage courses affect such land;

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(iii) whether any land is within a proclaimed area in respect of which the council is exercising powers delegated under section 33D of the *Water Act* 1958;

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(iv) (where the land is within the area of such a scheme) whether pursuant to section 33B of the *Water Act* 1958, a copy of the scheme under that section has been forwarded to the council;

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(v) (where the land or part thereof would be affected thereby) whether the particulars of any proclamation under section 35 of the *Drainage of Land Act* 1975 have been notified to the council; and

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(vi) (where the land or part thereof would be affected thereby) whether the council is the responsible authority for any drainage course under section 38 of the *Drainage of Land Act* 1975 and, if not, whether the council has received notification of the proclamation of any drainage course under paragraph (c) of sub-section (5) of that section;

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(f) a certificate in respect of land liable to flooding pursuant to regulations made under section 25 (n) of the *Building Control Act* 1981;

Land liable to flooding certificate.

(g) a certificate specifying—

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(i) whether the council has served on the owner of any property any notice or taken any step under Division 4 of Part III. of the *Building Control Act* 1981 and giving particulars of any notice so served or step so taken; and

Certificate as to fitness for human habitation and state of disrepair.

(ii) whether

Planning
certificate.

- (ii) whether any moneys are charged on the property under Division 4 of Part III. of the *Building Control Act* 1981 and giving particulars thereof and stating when the moneys are due and payable and when the property became so charged; and 5
- (h) where the municipal council is the responsible authority, a certificate stating—
- (i) whether at the date specified in the certificate the land described in the application and referred to in the certificate is or is not land to which an interim development order, planning scheme or local development scheme applies under the *Town and Country Planning Act* 1961 or is within an area in respect of which the Governor in Council has authorized the preparation of an urban renewal proposal; 10 15
- (ii) where the municipal district of the municipal council is within the metropolitan area, whether at the date specified in the certificate a planning scheme or interim development order of the Board of Works applies to the land; and 20
- (iii) such other information with respect to the operation and effect of the interim development order, planning scheme or local development scheme at the date specified in the certificate as is prescribed by regulations made under the *Town and Country Planning Act* 1961. 25
- (2) The council may, in addition to the matters referred to in sub-section (1), provide with any certificate such other information concerning the land or property the subject of the application as the council in its absolute discretion deems relevant. 30
- (3) A council shall not incur any liability in respect of any information included in a statement in good faith pursuant to sub-section (2).
- (4) An application under sub-section (1)— 35
- (a) shall be in the prescribed form;
- (b) shall state the name and address of the person making the application; and
- (c) shall give particulars of the land or property in respect of which the information is required. 40
- (5) Upon receipt of the application and payment of the prescribed fee, the municipal clerk or some other person authorized by the council in that behalf shall procure, sign and give to or send by post to the person so applying the certificate or certificates applied for. 45

861B. (1) A certificate

861B. (1) A certificate under section 861A (1) (b) shall— Rate certificate.

- 5 (a) where the property is chargeable under any Act for the time being in force with rates or other moneys and interest state—
- 10 (i) what rates and other moneys and interest (if any) are due or payable to such municipality in respect of such property;
- (ii) particulars of such rates and other moneys and interest; and
- (iii) when the same became due or payable or that no such rates or other moneys are due or payable (as the case may be);
- 15 (b) where the council of the municipality has served notice in respect of works to be carried out pursuant to Division 10 or Division 11 of Part XIX. or Division 5 of Part XXI. state—
- (i) the estimated cost of such works as shown in such notice; and
- 20 (ii) the date on which such notice was served on the owner of such land; and
- (c) state the name of the person shown in the rate-book as the owner of the property.

25 (2) The production of such certificate so signed shall for all purposes whatsoever be deemed conclusive proof that at the date thereof—

- (a) no rates or other moneys were due and payable to the municipality other than those stated in the certificate in respect of such property;
- 30 (b) no notice of intention in respect of works proposed to be carried out pursuant to Division 10 or Division 11 of Part XIX. or Division 5 of Part XXI. has been served on the owner of such property other than a notice (if any) referred to in the certificate;
- 35 (c) the amount shown thereon (if any) as the estimated cost of any works referred to in paragraph (b) of sub-section (1) is the amount specified in the notice served on such owner in respect of such works; and
- 40 (d) no potential liability existed in respect of the property by the operation of section 251 (6) or 266 (7) of this Act or section 4 (5) of the *Cultural and Recreational Lands Act* 1963 other than the potential liability (if any) referred to in the certificate.

(3) Notwithstanding

(3) Notwithstanding sub-section (2) where a certificate so signed shows that the land may become charged with a liability by the operation of section 251 (6) or 266 (7) of this Act or section 4 (5) of the *Cultural and Recreational Lands Act* 1963 any amount which becomes charged on the land by the operation of those provisions may be recovered by the municipality notwithstanding that the precise amount of the potential liability was not disclosed on the certificate. 5

Certificate as to recreational lands contribution.

861C. The production of a certificate issued pursuant to section 861A (1) (c) and signed by the municipal clerk shall be deemed to be conclusive evidence that— 10

- (a) a request under section 569B (8A)—
 - (i) has not been made in respect of the land specified in the certificate; or
 - (ii) has been made as specified in the certificate; and 15
- (b) that a request made under section 569B (8A)—
 - (i) has not been complied with; or
 - (ii) has been complied with to the extent specified in the certificate. 15

Status of street certificate.

861D. (1) For the purposes of a certificate under section 861A (1) (d)— 20

- (a) where any street in the municipal district of a municipality has been constructed, and the municipal clerk is unable to ascertain from the municipal records the circumstances in which the street was constructed, the street shall be deemed to have been constructed under Division 10 of Part XIX. and the municipal clerk shall certify accordingly; and 25
- (b) and in this section, “street” does not include a street which is not more than 4·6 metres in width. 30

(2) The production of such a certificate so signed shall be deemed to be conclusive evidence that any street specified therein has not been constructed or has been constructed to the extent described in the certificate.

Certificate as to fitness for human habitation and state of disrepair.

861E. A certificate issued pursuant to section 861A (1) (g) shall for all purposes be deemed conclusive proof as at the date thereof of any step taken under Division 4 of Part III. of the *Building Control Act* 1981 in respect of the property or of any money which is a charge on the property under that Division of that Act.”. 35

Amendment of No. 6299. Consequential amendments.

(2) The Principal Act shall be amended as follows: 40

- (a) In section 1 in the table of contents after the part relating to Part XLVI. there shall be inserted the following part: “Part XLVIA.—Certificates ss. 861A—861E.”; and

(b) Section

(b) Section 265A, sub-sections (2), (3), (4), (5), (6) and (6A) of section 387, sub-sections (8AC), (8AD) and (8AE) of section 569B and sections 600C and 656E shall be repealed.

(3) The *Building Control Act* 1981 shall be amended as follows: Amendment of Building Control Act 1981.

5 (a) In section 36 (1) for the expression "section 41" there shall be substituted the expression "section 861A (1) (g) of the *Local Government Act* 1958"; and

(b) Section 41 shall be repealed.

10 (4) Section 38 of the *Town and Country Planning Act* 1961 shall be amended as follows: Amendment of No. 6849. Consequential amendment of s. 38.

(a) In sub-section (1)—

(i) after the words "responsible authority" (where first and secondly occurring) there shall be inserted the expression "(other than a municipal council)";

15 (ii) the word "and" after paragraph (aa) shall be repealed; and

(iii) paragraph (ab) shall be repealed; and

20 (b) In sub-section (2) after the words "to be so signed" there shall be inserted the expression "pursuant to sub-section (1) or section 861A (1) (h) of the *Local Government Act* 1958".

29. After section 918A (8) of the Principal Act there shall be inserted the following sub-section:

25 "(9) The provisions of this Division shall extend and apply to the city of Melbourne and the city of Geelong."

30. (1) Section 1 of the *Local Government (Further Amendment) Act* 1981 shall be amended as follows: Amendment of No. 9575 s. 1.

(a) In sub-section (3) for the expression "and 47" there shall be substituted the expression "47, 51, 52 and 53"; and

30 (b) For sub-section (4) there shall be substituted the following sub-sections:

"(4) Sections 45, 46 and 47 shall come into operation on 1 July 1981.

35 (5) Sections 51, 52 and 53 shall be deemed to have come into operation on 21 May 1969."

(2) The *Local Government (Further Amendment) Act* 1981 shall be deemed to have been enacted as amended by this section.

