

Local Government (Amendment) Bill

EXPLANATORY MEMORANDUM

Background

The purpose of the Bill is to make changes concerning—

- (a) probity requirements of councillors;
- (b) annual reports, corporate plans and budgets;
- (c) the declaration of rates;
- (d) the payment of rates by new owners; and
- (e) minor technical matters.

Proposed amendments

- Clause 1 This clause outlines the purposes of the Bill which are to make certain changes to the **Local Government Act 1989** (the Act) concerning annual reports, corporate plans, budgets, the declaration of rates, the payment of rates by new owners and to improve the operation of the Act.
- Clause 2 This clause provides for the Act to come into operation on the day which it receives Royal Assent unless otherwise provided.
- Clause 3 This clause tightens section 77 of the Act, improving the chances of a successful prosecution of Councillors or members of council committees who make improper use of information acquired as a Councillor or member.
- Clause 4 This clause clarifies section 81 of the Act relating to the register of pecuniary interests.
- Clause 5 This clause relocates section 127 of the Act so that it will appear in its logical place in section 125 of the Act which deals with accounts and records.
- Clause 6 This clause makes certain changes to the annual report provisions under the Act to strengthen the requirements for the preparation of an annual report, ensure that the provisions are sequential and include information relating to competitive tendering statements.

- Clause 7 This clause amends the current provisions of the Act which relate to the holding of meetings to discuss the annual report. The proposed provision is consistent with the Corporations Law requirements for annual general meetings.
- Clause 8 This clause substitutes the present section 128 of the Act (examining and settling of financial statements) which is out of step with current procedures in relation to financial statements. It also requires the auditor to prepare a report on a council's corporate plan achievement report.
- Clause 9 This clause clarifies the present requirements in relation to a council's preparation of the annual budget.
- This clause also inserts 2 new provisions into the Act. The first deals specifically with revised budgets and specifies in what circumstances a revised budget needs to be prepared.
- The second will enable the Minister to request councils to provide information of special concern relating to budgets within 14 days (or any longer period specified). This will enable problems to be identified and to be addressed.
- Clause 10 This clause relocates section 151 of the Act so that it will appear in its logical place in section 145 of the Act which deals with proposed borrowings.
- Clause 11 This clause extends the present period (5 days) for written submissions on the proposed budget or revised budget to 14 days by enabling persons to make submissions under section 223 of the Act.
- Clause 12 This clause rewords section 150(1) of the Act to make it clear that a council may only adopt a budget or a revised budget if it has complied with all of the requirements under the Act relating to budgets and revised budgets.
- Clause 13 This clause substitutes the present section 153A of the Act (Corporate Plan) and extends the matters which must be set out in a council's corporate plan.
- Clause 14 This clause inserts a new provision into the Act which requires a council to prepare a performance statement each year as outlined in that section.
- The council must give the statement to its auditor and must also provide the statement to the Minister. If it has failed to achieve the targets in its business plan, a written explanation to the Minister must accompany the statement.
- Clause 15 This clause clarifies the present section 155 of the Act which sets out the rates and charges a council may declare by including specific references to the sections of the Act which deal with these rates and charges.

- Clause 16 This clause extends a council's ability to recover unpaid rates to include a mortgagee in possession. Currently a council can recover unpaid rates from an owner or occupier but not a mortgagee in possession.
- Clause 17 This clause extends the application of section 223 of the Act by enabling a person to make a submission on a council's decision to change its system of valuation.
- Clause 18 This clause makes a number of minor changes to the rating provisions in the Act with respect to differential rates and the method of determining the general rate for any rateable property.
- Clause 19 This clause reorganises and clarifies the provisions of the Act which relate to differential rates for councils which use the capital improved value system of valuing land.
- Clause 20 This clause deals with the application of limited differential rates where a council uses either the site value or net annual value system of valuing land.
- Clause 21 This clause relocates the present section 182 of the Act so that it will appear in its logical place after section 163 of the Act which deals with special rates and special charges.
- Clause 22 This clause makes certain consequential amendments because of the relocation of section 182 of the Act.
- Clause 23 This clause removes the current situation where new owners of a property are liable to pay rates at settlement. The amendment enables new owners to pay any rates or charges in the same way and on the same dates as applied to the vendor.
- Clause 24 This clause changes the references in section 184 of the Act to make them consistent with other similar references in the Act.
- Clause 25 This clause repeals the provisions which restricted to a specified 3 year period the Minister's power to limit the income Councils can derive from rates and charges.
- Clause 26 This clause enables a council for CCT purposes to contract jointly with other councils without requiring the approval of the Minister under section 193 of the Act.
- Clause 27 This clause clarifies the CCT treatment of competitive arrangements entered into by regional groups.

- Clause 28 This clause changes the constitution of a Municipal Electoral Tribunal by enabling the Attorney-General to nominate either a magistrate or an acting magistrate for appointment to a Tribunal.
- Clause 29 This clause makes certain consequential amendments to the Act.
- Clause 30 This clause repeals the **Bourke Street Mall Act 1982**.
- Clause 31 This clause repeals those provisions of the **City of Greater Geelong Act 1993** which are spent.
- Clause 32 This clause repeals those provisions of the **City of Melbourne Act 1993** which are spent.
- Clause 33 This clause makes certain minor technical amendments to the Act as part of statute law revision. Clause 33(d) clarifies the appointment of the chairperson of the Local Government Board.