

CLAUSE NOTES

Local Government Amendment Bill 2011

Clause 1: Short Title

Clause 1 is a formal presentation specifying the title of the proposed Act.

Clause 2: Commencement

Clause 2 is a formal provision specifying that the Bill will commence on the day it receives Royal Assent.

Clause 3: Principal Act

Clause 3 identifies that the amendments contained in the Bill relate to the *Local Government Act 1993* (the Act).

Clause 4: Section 3 amended (Interpretation)

Clause 4 inserts a definition of ‘regulations’ into the interpretation section of the Act to clarify that all references to regulations throughout the Act are references to regulations made under the *Local Government Act 1993*.

Clause 5: Section 86 amended (Interpretation of Part 9)

Clause 5 amends the definition of ‘rate’ to include, for the purposes of a new section 88A (which is inserted by Clause 6), a charge made under Part 9. This will have the effect of enabling a rate increase cap under section 88A to be applied across both rates and charges made by a council.

Clause 6: Section 88A inserted - S88A Capping of rate increases

Clause 6 inserts a new section 88A expressly enabling councils to set a maximum percentage increase on rates payable on rateable land above the rates charged in the rating year immediately preceding.

Subclause (1)(a) enables a council to set a maximum percentage increase to be on any or all of the rates and charges (including the fixed component of the general rate) to be paid on rateable land. This may include all components or

only some components of rates and charges payable on rateable land within a council's area.

Subclause (1)(b) enables a council to vary the rate increase cap by any or all or a combination of the factors set out in section 107 of the Act, which include: the use or predominant use of the land, the non-use of the land, the locality of the land, any planning zone or any other prescribed factor.

Subclause (2)(a) enables councils to apply the rate increase cap as a remission under section 129.

Subclause (2)(b) enables a council to set conditions that are to apply in order for a ratepayer or class of ratepayers to qualify (or not qualify) for a maximum percentage increase.

Subclause (2)(3) enables the State Government to make regulations in relation to the setting and the application of a rate increase cap.

Clause 7: Section 91 amended (Composition of general rate)

Clause 7 amends section 91(2)(b) by increasing the total revenue amount that may be raised by a council from a fixed charge sum, from 20 per cent of the council's general rates for the year, to 50 per cent of the council's rates for the year.

Clause 7 also amends and simplifies section 91(2)(b) by removing the provision regarding the 'total current administrative expenditure in the previous financial year' as it is no longer a requirement that the fixed charge be calculated with reference to this amount.

Clause 8: Section 94 amended (Service charges)

Clause 8 amends section 94 to clarify that service charges (which can currently be varied by the factors set out in section 107) can be varied by any or all, or a combination of any or all of these factors. The relevant factors in section 107 include: the use or predominant use of the land, the non-use of the land, the locality of the land, any planning zone or any other prescribed factor.

Clause 8 also provides additional flexibility and clarity to enable councils to vary service charges according to the level of service provided to ratepayers. For example, a waste management charge may be varied according to the bin size provided to ratepayers, or the frequency of waste collection.

Clause 9: Section 107 amended (Variation in rates)

Clause 9 amends section 107 of the Act to clarify that a council may vary not only the general rate or a service rate but also a service charge according to any or all or a combination of the factors set out in section 107. The relevant factors in section 107 include: the use or predominant use of the land, the non-use of the land, the locality of the land, any planning zone or any other prescribed factor.

Clause 10: Repeal of Act

Clause 10 is a standard provision included in Bills to enable the automatic repeal of amendment Acts.